



CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2017 APR 20 PM 4:30

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Katano Kasaine
Director of Finance

SUBJECT: Alameda County Coliseum Arena
License Agreement

DATE: April 20, 2017

City Administrator Approval

Date:

4/20/17

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing and Approving the Execution of Amendment No. 4 to the Oakland-Alameda County Coliseum Arena License Agreement Between the Golden State Warriors, LLC and the Oakland Alameda County Coliseum Authority.

EXECUTIVE SUMMARY

On April 5, 2017, the Board of the Oakland-Alameda County Coliseum Joint Powers Authority ("Authority") approved and authorized the execution of Amendment No. 4 to the Oakland-Alameda County Coliseum Arena License Agreement between the Golden State Warriors, LLC and the Oakland-Alameda County Coliseum Authority, as amended ("Authority"). The Management Agreement between the City of Oakland, County of Alameda and the Authority requires that the City of Oakland and the County of Alameda each approve the amendment before the Authority executes it.

The term of the License Agreement currently is set to expire on June 30, 2017. Amendment No. 4 provides a two-year extension ("Extension Term") plus three successive one-year extensions ("Extension").

BACKGROUND / LEGISLATIVE HISTORY

This is the first time the resolution approving and authorizing execution of Amendment No. 4 is being presented to the City Council.

The Board of Oakland Alameda County Coliseum Joint Powers Authority (the "Authority") and the Golden State Warriors, LLC, a California limited liability company (the "Warriors"), entered into that certain Oakland-Alameda County Coliseum Arena (the "Arena") License Agreement, dated as of July 15, 1996, as amended by that certain Amendment No. 1 to the License Agreement, as further amended by that certain Amendment No. 2 to the License Agreement dated June 15, 2003, as further amended by that certain Agreement dated November 1, 2006, and as further amended by that certain Amendment No. 3 to License Agreement dated June 21,

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2011 (as amended, the "License Agreement"). The term of the License Agreement currently is set to expire on June 30, 2017.

PROPOSED TERMS OF AMENDMENT NO. 4

- **Term:** Two year extension ("Extension Term") with three successive one year options (hereafter Extensions).
- **Compensation:** Guaranteed minimum of \$7.5M over the term.
 - **Rent:** Warriors will pay \$2.5M per year as base rent, plus naming rights, for the Extension Term and each Extension. The Authority retains all of its playoff revenue for the extension term and every option.
 - **Exit Fee:** If the Warriors do not exercise the first Extension (option for Year 3), they pay the Authority an exit fee of \$2.5M.

If the Warriors do not exercise the second Extension (option for Year 4), they pay the Authority an exit fee of \$1.5M.

If the Warriors do not exercise the third Extension (option for Year 5), they pay the Authority an exit fee of \$500,000.

All other sources of revenue remain the same.

- **Project Debt:** Warriors will continue to pay approximately \$7.5M annually to project debt.

The Authority retains and preserves all its rights to repayment of the entire debt as stipulated in the Master Licensing agreement.

ANALYSIS AND POLICY ALTERNATIVES

The City Council has the alternatives of approving Amendment No. 4 as presented, approving Amendment No. 4 with further amendments, or taking no action on Amendment No. 4.

FISCAL IMPACT

The extension of this agreement will guaranteed a minimum of \$7.5M over the term.

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PUBLIC OUTREACH / INTEREST

There is a high level of public interest in the Warriors.

COORDINATION

This report was prepared by the Finance Department and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this item.

Environmental: There are no environmental opportunities associated with this item.

Social Equity: There are no social equity opportunities associated with this item.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council adopt A Resolution Authorizing and Approving the Execution of Amendment No. 4 to the Oakland-Alameda County Coliseum Arena License Agreement Between the Golden State Warriors, LLC and the Oakland Alameda County Coliseum Authority.

For questions regarding this report, please contact Katano Kasaine, Director of Finance, at (510) 238-2989.

Respectfully submitted,



Katano Kasaine
Director of Finance, Finance Department

Prepared by:
Dawn Hort, Principal Financial Analyst
Treasury Bureau

Attachment A (1): OACCA License Agreement Golden State Warriors Amendment No. 4

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AMENDMENT NO. 4
OAKLAND-ALAMEDA COUNTY COLISEUM ARENA LICENSE AGREEMENT
GOLDEN STATE WARRIORS

THIS AMENDMENT NO. 4 TO LICENSE AGREEMENT (this "**Fourth Amendment**") is entered into effective as of April 5, 2017 (the "**Fourth Amendment Date**"), by and between OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY ("**Authority**"), for itself and as successor to OAKLAND ALAMEDA COUNTY COLISEUM, INC. ("**Licensor**") and GOLDEN STATE WARRIORS, LLC, a California limited liability company ("**Licensee**").

RECITALS:

A. WHEREAS, Licensor, the Authority and the Licensee entered into that certain Oakland-Alameda County Coliseum Arena License Agreement dated as of July 15, 1996, as amended by that certain Amendment No. 1 to License Agreement, as further amended by that certain Amendment No. 2 to License Agreement dated June 15, 2003, as further amended by that certain Agreement dated November 1, 2006, and as further amended by that certain Amendment No. 3 to License Agreement dated June 21, 2011 (as amended, the "**License Agreement**"), whereby Licensor licenses the New Arena to Licensee;

B. WHEREAS, the Authority has succeeded to all of the rights and obligations of Licensor under the License Agreement and therefore all references to Authority and Licensor in the License Agreement are references to the Authority;

C. WHEREAS, the Initial Term of the License Agreement is currently set to expire on June 30, 2017;

D. WHEREAS, Licensee has not exercised, and therefore, prior to the effectiveness of this Fourth Amendment has no further right to exercise, any of the options to extend the Term of the License Agreement as set forth in Paragraph 6.2 of the License Agreement; and

E. WHEREAS, Licensor and Licensee desire (i) to extend, and provide Licensee options to further extend, the Term of the License Agreement, (ii) to establish additional consideration for the First Extension Term and any additional Extensions (each as defined below) and (iii) to amend other terms of the License Agreement, all subject and pursuant to the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Licensor and Licensee agree as follows:

AGREEMENT:

1. **INCORPORATION OF RECITALS.** The foregoing Recitals shall be incorporated as though fully set forth herein.

2. **THE FIRST EXTENSION TERM; GRANT OF OPTIONS TO EXTEND; ACKNOWLEDGEMENTS REGARDING LICENSEE'S OPTIONS.**

2.1 **The First Extension Term.** The Term of the License Agreement is hereby extended for an additional term (the "**First Extension Term**") of twenty-four (24) months, commencing on July 1, 2017 (the "**First Extension Date**"), and ending on June 30, 2019 (the "**Expiration Date**"), unless sooner terminated or extended pursuant to the License Agreement or this Fourth Amendment. Except as otherwise expressly provided or required by the context, all references in the License Agreement to the "Term" of the License Agreement shall be deemed to include reference to the Initial Term, First Extension Term and any Extensions exercised by Licensee in accordance with the terms hereof.

2.2 **Grant of Options to Extend.**

(a) **Grant of Options to Extend.** Licensee shall have the right to further extend the Term of the License Agreement for up to three (3) additional and consecutive periods of one (1) year each (each, an "**Extension**" and collectively, the "**Extensions**"), the first to commence upon expiration of the First Extension Term, and each successive Extension thereafter to commence upon the expiration of the immediately preceding Extension. Licensee shall have no right to exercise an Extension (i) if any preceding Extension has not been exercised, or (ii) at Licensor's option, if at the time Licensee attempts to exercise such Extension, it is in material default of any of the provisions of the License Agreement and

such default remains uncured after expiration of the applicable grace period. In order to exercise an Extension, Licensee shall give written notice (each, an "**Option Exercise Notice**") to Licensor on or before January 15th of the calendar year in which the expiration of the First Extension Term or the relevant Extension is scheduled to occur, as applicable. If Licensee fails to timely deliver an Option Exercise Notice in accordance with this Section 2.2 and the notice provisions of the License Agreement, then Licensee shall be deemed to have waived its extension rights, as aforesaid, and Licensee shall have no further right to extend the term of the License Agreement. Paragraph 6.2 (Options to Extend) of the License Agreement is hereby deleted in its entirety and is of no further force or effect.

(b) Terms and Conditions of Extensions. Each Extension shall be on all the terms and conditions of the License Agreement and this Fourth Amendment.

2.3 Acknowledgements Regarding Licensee's Options. Licensee and Licensor acknowledge and agree that, except as expressly set forth in Section 2.2 above, Licensee has no option to extend or renew the License Agreement, nor any rights of first offer, rights of refusal or rights to expand or contract.

3. ADDITIONAL CONSIDERATION.

3.1 For the Current Term. Prior to the First Extension Date, Licensee shall continue to pay rent pursuant to the terms and conditions of the License Agreement.

3.2 Annual Consideration. In addition to any and all amounts otherwise payable pursuant to the terms and conditions of the License Agreement, including, but not limited to, the rent and other revenues set forth in Paragraph 7 of the License Agreement, and as partial consideration of Licensor granting Licensee the First Extension Term and the Extensions, Licensee shall pay Licensor an amount equal to One Million Dollars (\$1,000,000.00) per annum (the "**Additional Consideration**") during the First Extension Term and any Extension exercised by Licensee in accordance with the terms and conditions of this Fourth Amendment, which amount shall be paid on or before June 30th of the applicable year.

3.3 Consideration upon Expiration or First Extension Term, First Extension or Second Extension. In addition to any and all amounts otherwise payable pursuant to the terms and conditions of the License Agreement, and as partial consideration of Licensor granting Licensee the First Extension Term and the Extensions, Licensee shall, (a) on or prior to the date that is thirty (30) days following June 30, 2019, pay Licensor an amount equal to Two Million Five Hundred Thousand Dollars (\$2,500,000.00) if Licensor does not exercise the first Extension in accordance with Section 2.2 above, (b) on or prior to the date that is thirty (30) days following June 30, 2020, pay Licensor an amount equal to One Million Five Hundred Thousand Dollars (\$1,500,000.00) if Licensor exercises the first Extension, but does not exercise the second Extension, in accordance with Section 2.2 above, or (c) on or prior to the date that is thirty (30) days following June 30, 2021, pay Licensor an amount equal to Five Hundred Thousand Dollars (\$500,000.00) if Licensor exercises the first and second Extensions, but does not exercise the third Extension, in accordance with Section 2.2 above. For the avoidance of doubt, no consideration shall be paid by Licensee to Licensor pursuant to this Section 3.3 if Licensee exercises each of the first, second and third Extensions in accordance with Section 2.2 above.

4. GENERAL PROVISIONS.

4.1 Full Force and Effect; Conflict. Licensor and Licensee acknowledge and confirm that the License Agreement, as amended hereby, is in full force and effect as of the Fourth Amendment Date. Except as expressly set forth in this Fourth Amendment, no term or provision of the License Agreement, including, but not limited to, any obligations of Licensee under Paragraph 6 of the License Agreement to make payments with respect to Project Debt, is being amended or modified. Nothing contained in the License Agreement, as amended hereby shall constitute a waiver by either Licensor or Licensee of any of their respective rights, obligations or remedies under the License Agreement (as amended hereby), at law, or in equity, including without limitation the payment of Project Debt under Paragraph 6 or the right to resolve any dispute by arbitration pursuant to Paragraph 39 of the License Agreement. In the event of any conflict between the License Agreement and this Fourth Amendment, the terms and conditions of this Fourth Amendment shall control.

4.2 Capitalized Terms. Capitalized terms not defined herein shall have the same meaning as set forth in the License Agreement. In addition, the terms "Term" and "Initial Term" as used in the Recitals shall have the meaning as set forth in the License Agreement prior to giving effect to this Fourth Amendment.

4.3 Successors and Assigns. This Fourth Amendment shall be binding upon and inure to the benefit of the parties hereto and their heirs, personal representatives, successors and assigns.

4.4 Power and Authority. Except as in accordance with the License Agreement, neither Licensee nor Licensor has assigned or transferred any interest in the License Agreement and Licensee and Licensor each has full power and authority to execute this Fourth Amendment.

4.5 Counterparts. This Fourth Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

4.6 Facsimile/Electronic/PDF Signatures. This Fourth Amendment may be executed by facsimile, electronic and/or .pdf signatures which shall be binding as originals on the parties hereto.

4.7 Governing Law. This Fourth Amendment shall be governed by and construed in accordance with the laws of the State of California.

4.8 No Option. The submission of this document for examination and review does not constitute an option, an offer to license space in the New Arena or an agreement to license. This document shall have no binding effect on the parties, and will not be effective as of the Fourth Amendment Date, unless and until executed by both Licensor and Licensee.

[signature page follows]

IN WITNESS WHEREOF, the parties have caused this Fourth Amendment to be executed as of the Fourth Amendment Date.

OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY,
a joint powers authority

By: _____
Chair

Attest: _____
Secretary

GOLDEN STATE WARRIORS, LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

Approved by:

Approved as to form and legality:

CITY OF OAKLAND

Oakland City Attorney

By _____
City Administrator

Approved as to form and legality:

COUNTY OF ALAMEDA

Alameda County Counsel

By _____
Chairman of Board of Supervisors

SIGNATURE PAGE

AMENDMENT NO. 4 TO LICENSE AGREEMENT
GOLDEN STATE WARRIORS

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City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AMENDMENT NO. 4 TO THE OAKLAND-ALAMEDA COUNTY COLISEUM ARENA LICENSE AGREEMENT BETWEEN THE GOLDEN STATE WARRIORS, LLC AND THE OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY

WHEREAS, the Oakland Alameda County Coliseum Joint Powers Authority (the "Authority") and the Golden State Warriors, LLC, a California limited liability company (the "Warriors"), entered into that certain Oakland-Alameda County Coliseum Arena (the "Arena") License Agreement, dated as of July 15, 1996, as amended by that certain Amendment No. 1 to the License Agreement, as further amended by that certain Amendment No. 2 to the License Agreement dated June 15, 2003, as further amended by that certain Agreement dated November 1, 2006, and as further amended by that certain Amendment No. 3 to License Agreement dated June 21, 2011 (as amended, the "License Agreement"), and

WHEREAS, the term of the License Agreement currently is set to expire on June 30, 2017; and

WHEREAS, the Warriors wish to extend the License Agreement to allow the Warriors to use the Arena until the new Arena in San Francisco is completed; and

WHEREAS, on April 5, 2017, the Board of Authority approved and authorized the execution of Amendment No. 4 to the License Agreement between the Warriors and the Authority; and

WHEREAS, the Management Agreement between the Authority, City of Oakland and the County of Alameda, requires that the City of Oakland and the County of Alameda each approve Amendment No. 4 to the License Agreement before the Authority enters into such amendment; and

WHEREAS, Amendment No. 4 to the License Agreement provides for a two-year extension ("First Extension Term"), commencing on July 1, 2017 and ending on June 30, 2019; and

WHEREAS, Amendment No. 4 to the License Agreement also grants the Warriors the option to further extend the term of the License Agreement for up to three additional and consecutive periods of one year each (hereafter, each is referred to as an "Extension" and collectively as the "Extensions") and provides that the first Extension shall commence upon the expiration of the First Extension Term, and each successive Extension thereafter shall commence upon the expiration of the immediately preceding Extension; and

WHEREAS, Amendment No. 4 to the License Agreement provides that each Extension shall be on all of the terms and conditions of the License Agreement and Amendment No. 4; and

WHEREAS, Amendment No. 4 to the License Agreement provides that in addition to any and all amounts otherwise payable pursuant to the terms and conditions of the License Agreement, and as partial consideration of the Authority's execution of Amendment No. 4 to the License Agreement, the Warriors shall pay the Authority \$1 million per annum during the First Extension Term and each Extension that the Warriors exercise; and

WHEREAS, Amendment No. 4 further provides that in addition to any and all amounts otherwise payable pursuant to the terms and conditions of the License Agreement, and in partial consideration of the Authority's execution of Amendment No. 4 to the License Agreement, the Warriors shall pay the Authority (a) \$2.5 million if the Warriors do not exercise the first Extension; (b) \$1.5 million if the Warriors exercise the first Extension but do not exercise second Extension, and (c) \$500,000 if the Warriors exercise the first and second Extensions but do not exercise the third Extension; and

WHEREAS, a true and correct copy of Amendment No. 4 to the License Agreement is attached to this Resolution; now therefore be it

RESOLVED: That the City of Oakland finds, determines, and declares that all the recitals set forth above are true and correct; and be it

FURTHER RESOLVED: That the City of Oakland approves and authorizes the execution and delivery by the Authority of Amendment No. 4 to the License Agreement, which is attached to this Resolution; and be it

FURTHER RESOLVED: That the City of Oakland authorizes the Authority to execute and deliver any agreements, and other documents, and take any and all actions, that the Authority may deem necessary or advisable in order to effectuate the purposes of this resolution; and be it

FURTHER RESOLVED: That the City of Oakland authorizes the City Administrator, for and on behalf of the City of Oakland, to execute and deliver any agreements and other documents, and take any and all actions, that may be deemed necessary or advisable in order to effectuate the purposes of this resolution.

DRAFT

212279271

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2017

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL, WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California