

OAKLAND CITY COUNCIL

City Attorney

RESOLUTION No. 80621 C.M.S.

Introduced by Councilmember

OFFICE OF THE CLERK
2007 MAY -2 PM 3:27

RESOLUTION APPROVING APPROVAL BY THE OAKLAND-ALAMEDA COUNTY AUTHORITY OF THE EXECUTED AGREEMENT BETWEEN THE GOLDEN STATE WARRIORS, LLC AND ORACLE CORPORATION FOR THE ARENA NAMING RIGHTS AND THE GOLDEN STATE WARRIORS SPONSORSHIP RIGHTS AND AGREEMENT

WHEREAS, On March 23, 2007, the Board of Commissioners of the Oakland Alameda County Coliseum Authority (the "Authority") approved and authorized the execution of the agreement between the Golden State Warriors ("Warriors") and the Oracle Corporation for the Arena Naming Rights and the Warriors Sponsorship Rights and Agreement; and

WHEREAS, the Amended and Restated Management Agreement between the City of Oakland and the County of Alameda and the Authority requires approval by the City of Oakland and the County of Alameda of any amendment of the License Agreement entered into on July 15, 1996 and subsequent Amendment No. 1 and Amendment No. 2 to the License Agreement (together "the Amended License Agreement") between the City, the County and the Authority; and

WHEREAS, the existing agreement between the Authority and the Warriors that establishes the terms and conditions for the sharing of Naming Rights revenues between the Authority and the Warriors is entered into pursuant to the terms of the Amended License Agreement; and

WHEREAS, the agreement between the Warriors and the Oracle Corporation for the Arena Naming Rights and the Warriors Sponsorship Rights and Agreement amends terms and conditions of the License Agreement Naming Rights Revenue Sharing Agreement between the Authority and the Warriors; and

WHEREAS, pursuant to the provisions of the Master Agreement between the City, the County and the Authority, the Authority has requested and recommended that the City approve the Authority's approval of the agreement between the Warriors and the Oracle Corporation for the Arena Naming Rights and the Warriors Sponsorship Rights and Agreement; and

WHEREAS, adoption of this Resolution will accomplish formal City of Oakland approval of the Agreement; and

WHEREAS, the accompanying report summarizes the proposed terms and conditions of the agreement between the Warriors and the Oracle Corporation for the Arena Naming Rights and the Warriors Sponsorship Rights and Agreement; and

WHEREAS, forms of the Agreement have been presented to this meeting; and

WHEREAS, the City finds it advisable and now desires to approve such terms and conditions and approve the Authority's approval of the agreement between the Warriors and Oracle Corporation for the Arena Naming Rights and the Warriors Sponsorship Rights and Agreement; now, therefore, be it

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

FURTHER RESOLVED: That the City hereby approves the Authority's approval of the agreement between the Warriors and Oracle Corporation for the Arena Naming Rights and the Warriors Sponsorship Rights and Agreement, in substantially the form presented to this meeting; and be it

FURTHER RESOLVED: That the City Clerk is hereby authorized to attest, if required, the Agreement.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 5 2007, 20

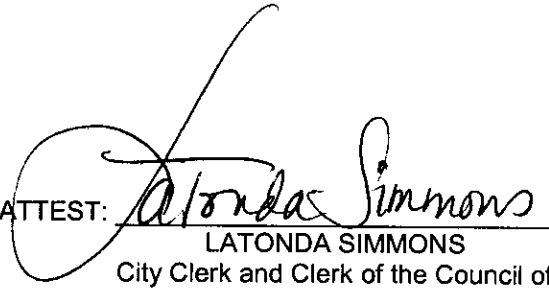
PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, ~~NADOL~~, QUAN, ~~BRUNNER~~, REID, CHANG, AND PRESIDENT DE LA FUENTE - 6

NOES - Brooks - 1

ABSENT - 0

ABSTENTION - Nadel - 1

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

ATTACHMENT A

AGREEMENT BETWEEN OAKLAND –ALAMEDA COUNTY COLISEUM AUTHORITY AND GOLDEN STATE WARRIORS LLC

This Agreement is entered into as of the 1st day of November, 2006 between Oakland-Alameda County Coliseum Authority, a joint exercise of powers authority established by the City of Oakland, a municipal corporation and a charter city duly organized and existing under the laws and the constitution of the State of California, and the County of Alameda, a political subdivision of the State of California ("**AUTHORITY**"), and Golden State Warriors LLC, a California limited liability company ("**LICENSEE**").

RECITALS

1. Oakland Alameda County Coliseum, Inc., a California non-profit corporation ("**OACC**"), the **AUTHORITY** and Golden State Warriors (formerly known as CC Partners and the predecessor to **LICENSEE**) entered into the July 15, 1996 License Agreement and subsequent Amendment No. 1 and Amendment No. 2 to the License Agreement (together, the "Amended License Agreement").
2. Pursuant to Section 10.3.1 of the Amended License Agreement, **LICENSEE** has the right through June 30, 2007 to contract, in its own name and/or as the agent of the **AUTHORITY**, with a third party ("Naming Rights Sponsor") for the sale of the naming rights to the New Arena for a term that does not exceed the Term of the Amended License Agreement. **LICENSEE** is obligated to provide the **AUTHORITY** with a form of any potential Naming Rights Agreement.
3. Pursuant to Section 10.3.1 of the Amended License Agreement, the **AUTHORITY** has the right to approve the terms of any Naming Rights Agreement, including the name of the New Arena, which approval will not be unreasonably withheld.
4. The "Net Annual Proceeds" resulting from the sale of the New Arena Name shall be shared by the **AUTHORITY** and **LICENSEE** pursuant to the terms of Section 10.3.3 of the Amended License Agreement.
5. **LICENSEE** retained The Bonham Group ("The Bonham Group") as its agent to obtain a Naming Rights Sponsor. Subject to the approval of the **AUTHORITY**, on November 1, 2006, **LICENSEE** entered into an integrated Arena Naming Rights and Golden State Warriors Sponsorship Rights Agreement ("Oracle Agreement") with Oracle Corporation ("Oracle"), a Delaware corporation. The Oracle Agreement provides a set payment from

Oracle to **LICENSEE** in the gross amount of \$3,000,000 a year for ten years ("Oracle Payment"). The Oracle Payment is intended to cover all expenses and costs related to both the Naming Rights and Sponsorship components of the Oracle Agreement including, but not limited to: (1) any broker commissions due The Bonham Group; (2) related "one time" costs incurred by **LICENSEE** to market the Naming Rights; (3) any recurring costs associated with fabricating, locating and maintaining the related Naming Rights signage; (4) any recurring costs associated with Oracle's Sponsorship Rights under the Oracle Agreement; and (5) Oracle's Naming Rights under the Oracle Agreement.

6. Any capitalized term used herein and not defined shall have the definition set forth in the Amended License Agreement.
7. **LICENSEE** and the **AUTHORITY** desire to: (a) enter into this Agreement approving the Oracle Agreement and providing for (1) the allocation of revenue generated from the Oracle Agreement between the Licensee and the Authority and (2) the delineation of responsibilities required to be performed by the Licensee and the Authority under the Oracle Agreement; (b) enter into a side letter ("Side Letter") with Oracle in substantially the form attached hereto as Attachment A; and (c) enter into a Third Amendment to the Amended License Agreement ("Third Amendment") specifically referencing and authorizing the Oracle Agreement in substantially the form attached hereto as Attachment B.

AGREEMENT

Now, therefore, **LICENSEE** and **AUTHORITY** hereby agree as follows:

1. **Approval of Oracle Agreement.** Subject to the execution of the Side Letter and approval of the Third Amendment and pursuant to the terms of Section 10.3 of the Amended License Agreement, the **AUTHORITY** hereby approves the Oracle Agreement, subject to the provisions hereof, and specifically approves the use of the name of the New Arena set forth in the Oracle Agreement.
2. **Allocation of Oracle Payment.** **LICENSEE** and the **AUTHORITY** agree that each year of the Oracle Agreement, the Oracle Payment shall be allocated between **LICENSEE** and the **AUTHORITY** in the following manner and in the following order:
 - (a) **The Bonham Group Commission.** The parties agree that The Bonham Group is entitled to an annual agency fee of five per cent of the gross amounts received from Oracle each year, during the term of the Oracle Agreement ("The Bonham Group Commission"). Accordingly, by way of example only, assuming the Oracle Payment is Three Million Dollars (\$3,000,000) the parties agree that **LICENSEE** is authorized to pay The Bonham Group an annual agency fee of One Hundred Fifty Thousand Dollars (\$150,000).

(b) **LICENSEE One Time Costs.** LICENSEE has incurred out-of-pocket expenses totaling Two Hundred Sixty Three Thousand, Five Hundred and Seventy-Six Dollars (\$263,576) directly related to securing the Oracle Agreement ("LICENSEE One Time Costs"). The parties agree that LICENSEE is entitled to be fully reimbursed for these expenses from the Oracle Payment received during the first year of the term of the Oracle Agreement. Attachment C is a spreadsheet showing the costs incurred.

(c) **Signage Package Costs.** Under the terms of the Oracle Agreement, the cost of fabricating, locating and maintaining all Naming Rights signage is included in the Oracle Payment. The parties agree that it is in their best interests to have LICENSEE finance certain upfront costs associated with the fabrication and location of the Naming Rights signage. The parties agree that LICENSEE shall be entitled to use Three Hundred Thousand Dollars (\$300,000) of each of the Oracle Payments to fund an account ("Oracle Account") which shall be maintained by LICENSEE and used to pay all reasonable expenses incurred by LICENSEE and the AUTHORITY, or their authorized agents, relating to the fabrication, location and maintenance of the annual Naming Rights Signage as well as any other direct out-of-pocket expenses incurred by either LICENSEE or the AUTHORITY solely as a result of their respective obligations under the Naming Rights provisions of the Oracle Agreement ("Signage Package Costs"). Such funds shall first be used to pay for the costs associated with the Naming Rights signage. Any funds not needed in a particular year shall be held in the Oracle Account for future possible expenses. LICENSEE shall distribute any funds remaining in the Oracle Account after all such expenses have been paid and the Oracle Agreement has expired pro rata with sixty per cent (60%) of the remaining funds paid to the LICENSEE and forty per cent (40%) of such funds paid to the AUTHORITY. LICENSEE shall provide the AUTHORITY with a written report on November 1 of each year during the term of the Oracle Agreement setting forth an accounting of the Signage Package Costs incurred and paid for out of the Oracle Account in accordance with this Paragraph 2(c) and a final report within ninety (90) days after the end of the Oracle Agreement. The LICENSEE shall pay to the AUTHORITY or its authorized agent all Signage Package Costs incurred by the AUTHORITY or its authorized agent within 30 days of receiving an invoice for such costs. The AUTHORITY is not obligated to use its own funds to pay any Signage Package Costs or any other related costs that may accrue as a direct result of its approval of the Oracle Agreement. If LICENSEE fails to pay such invoices within 30 days of receipt, the AUTHORITY shall not be obligated to incur any further expenses for Signage Package Costs until LICENSEE pays all such invoices.

(d) **Sponsorship Rights Costs.** In exchange for the Sponsorship Rights provided Oracle by LICENSEE pursuant to the terms of the Oracle Agreement, the parties hereto agree that LICENSEE is entitled to be compensated for the following ("Sponsorship Rights Costs"):

(1) **Luxury Suite.** Each year of the Oracle Agreement, LICENSEE is obligated to provide Oracle with Luxury Suite M11 (or a comparable

Luxury Suite) currently priced at One Hundred Twenty-Eight Thousand Dollars (\$128,000) a year. **LICENSEE** is entitled to receive from the annual Oracle Payment as compensation for Luxury Suite M11 the annual price set by **LICENSEE** for comparable luxury suites ("Luxury Suite Fee").

(2) **Regular Season Tickets and Parking Passes.** Each year of the Oracle Agreement, **LICENSEE** is obligated to provide Oracle the following Regular Season **LICENSEE** tickets and parking passes ("Regular Season Tickets and Passes"):

- (i) Regular Season Tickets for four (4) VIP Floor Seats currently priced for the 2006-07 Regular Season at One Hundred Seventy-Two Thousand Dollars (\$172,000) in toto;
- (ii) Regular Season Tickets for ten (10) Sideline Club Seats currently priced for the 2006-07 Regular Season at Fifty-One Thousand, Six Hundred Dollars (\$51,600) in toto;
- (iii) Regular Season Tickets for ten (10) Lower Level Seats currently priced for the 2006-07 Regular Season at Forty-Two Thousand, One Hundred Forty Dollars (\$42,140) in toto;
- (iv) Regular Season Tickets for fifty (50) "Oracle for Kids" Seats currently priced for the 2006-07 Regular Season at Eighty-One Thousand, Seven Hundred Dollars (\$81,700) in toto; and
- (v) Twelve (12) Regular Season Parking Passes currently priced for the 2006-07 Regular Season at Seven Thousand, Seven Hundred Forty Dollars (\$7,740) in toto.

In addition to the Luxury Suite Fee, each year of the Oracle Agreement **LICENSEE** shall be entitled to receive as part of the Sponsorship Rights Costs the then existing price for the Regular Season Tickets and Passes. Thus, for the first year of the Oracle Agreement, **LICENSEE** shall be entitled to receive a total of Four Hundred Eighty-Three Thousand, One Hundred Eighty Dollars (\$483,180) as compensation for the Luxury Suite, Regular Season Tickets and Passes provided Oracle. By way of example only, if during the next year price of the Luxury Suite and Regular Season Tickets and Passes all increase by three per cent (3%), the amount **LICENSEE** would be entitled to receive under Paragraph 2(d)(1) and (2) would increase from Four Hundred Eighty-Three Thousand, One Hundred Eighty Dollars (\$483,180) to Four Hundred Ninety-Seven Thousand, Six Hundred Seventy-Five Dollars and Forty Cents (\$497,675.40).

(3) Post-Season Tickets and Parking Passes. Pursuant to the Oracle Agreement, **LICENSEE** is obligated to provide Oracle with: (a) Post-Season Tickets, if any, for the locations identified in Paragraph 2(d)(2) except the "Oracle for Kids" locations identified in Paragraphs 2(d)(2)(iv) and (b) twelve (12) Parking Passes ("Post-Season Tickets and Passes"). As part of the Sponsorship Rights Costs, **LICENSEE** shall be entitled to be compensated each year from the Oracle Payment for the price of any such Post-Season Tickets and Passes for any Post-Season game actually played at the New Arena during the term of the Oracle Agreement. The cost for any such Post-Season Tickets and Passes shall be deducted from the Oracle Payment received immediately after such Post-Season games occur except that during the final year of the Oracle Agreement, **LICENSEE** shall withhold a reasonable sum from the final Naming Rights Payment to cover the cost of any such Post-Season Tickets and Passes required during the final year of the Oracle Agreement. Any portion of this withheld amount not needed for the payment of Post-Season Tickets and Passes shall be allocated between the parties in accordance with the terms of Paragraph 10.3.3 of the Amended License Agreement.

(e) Naming Rights Payment. During each year of the Oracle Agreement term, the amount of the Oracle Payment remaining after accounting for: (1) the Bonham Group Commission; (2) the **LICENSEE** One-Time Costs; (3) the deposit to the Oracle Account for Signage Package Costs as provided in 2(c) above; and (4) Sponsorship Rights Costs shall be the "Naming Rights Payment" (or, for purposes of the Amended License Agreement, the "Net Annual Proceeds"). In accordance with Paragraph 10.3.3 of the Amended License Agreement: (1) the first Two Hundred Fifty Thousand Dollars (\$250,000) of the Naming Rights Payment shall be paid to the **AUTHORITY**; (2) the next Five Hundred Thousand Dollars (\$500,000) shall be retained by **LICENSEE**; and (3) the Naming Rights Payment in excess of Seven Hundred Fifty Thousand Dollars (\$750,000) shall be divided pro rata so that the **AUTHORITY** receives forty per cent (40%) and **LICENSEE** receives sixty per cent (60%). Pursuant to the Paragraph 10.3.3 of the Amended License Agreement, any portion of the Naming Rights Payment received by the **AUTHORITY** shall be used to Project Debt. **LICENSEE** shall pay all amounts due and payable to the **AUTHORITY** with five business days of receipt of each payment **LICENSEE** receives from Oracle.

3. **2006-07 Naming Rights Payment.** Based on the foregoing, and assuming Oracle makes the full Three Million Dollar (\$3,000,000) Oracle Payment for 2006-07, it is agreed that for the year 2006-07, the **AUTHORITY** shall receive Six Hundred
4. Seventy-One Thousand, Two Hundred Ninety-Eight Dollars (\$671,298) as its share of the Naming Rights Payment portion of the Oracle Payment for 2006-07 received by **LICENSEE**. Attachment D to this Agreement is a spreadsheet setting forth the calculation that was used to arrive at this payment.
5. **Subsequent Years Naming Rights Payment.** Every year of the term of the Oracle Agreement after 2006-07, the Naming Rights Payment to be received by

the **AUTHORITY** shall be calculated in accordance with the terms of this Agreement. Such calculation shall differ from that for the year 2006-07 in that: (a) there shall be no reduction in the Oracle Payment for the **LICENSEE** One-Time Expense and (b) the price of the Luxury Suite, Regular Season Tickets and Passes and Post-Season Tickets and Passes (if any) shall be based on the then current prices for such items.

6. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together constitute one agreement.
7. **Further Assurances.** The Parties will execute and deliver all such further endorsements, instruments, agreements, and other documents, and take all such further actions as the other Party may reasonably request from time to time in order to effectuate the terms, purposes, and intent of this Agreement.
8. **Execution in Counterpart.** This Agreement 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.
9. **Independent Contractors.** For all purposes under this Agreement, the Parties are independent contractors and nothing contained in this Agreement shall constitute or be deemed to constitute or give rise to a partnership, joint venture, or master and servant, employer and employee, principal and agent, fiduciary, or other relationship that imposes a fiduciary duty between the Parties. The Parties shall each be solely responsible for the conduct of their respective employees and agents in connection with the performance of their respective obligations hereunder.
10. **Amendments and Waivers.** This Agreement may not be modified or amended except by a writing signed by the Parties hereto.
11. **Counsel Involved.** The Parties have been represented by counsel of their own choosing in connection with the negotiation, preparation, and drafting of this Agreement and, consequently, the Parties hereby waive the application of any rule of law to the effect that ambiguities contained in the final written form of this Agreement shall be interpreted or construed against the Party who or whose attorney prepared the final draft or any prior draft hereof.
12. **Headings.** The captions and headings appearing in this Agreement have been inserted as a matter of convenience and in no way define, limit, or enlarge the scope of this Agreement or any of the provisions hereof.
13. **Interpretation.** Any conflict between the terms of the Agreement and the Amended License Agreement shall be resolved in favor of this Agreement.

AUTHORITY:

Oakland Alameda County Coliseum Authority,
A joint powers authority

By: _____
Ignacio De La Fuente, Chair

Attest: _____
William Noland, Secretary

LICENSEE:

Golden State Warriors LLC,
a California limited liability company

By: _____
Robert R. Rowell, President

ATTACHMENT B

OAKLAND-ALAMEDA COUNTY COLISEUM ARENA
AMENDMENT No. 3 TO LICENSE AGREEMENT
GOLDEN STATE WARRIORS

RECITALS

1. The Oakland Alameda County Coliseum, Inc. ("Licensor"), the Oakland Alameda County Coliseum Authority ("the Authority") and the Golden State Warriors (formerly known as CC Partners)("Licensee") have previously entered into a License Agreement, dated as of July 15, 1996 and have subsequently entered into Amendment No. 1 to License Agreement and Amendment No. 2 to the License Agreement (together, the "License Agreement").
2. On August 1, 2006, upon the expiration of the Licensor's rights to operate the Arena, the Authority acceded to all the rights and responsibilities of the Licensor under the License Agreement.
3. The Licensor, the Authority and the Licensee desire to enter into this Amendment No. 3 to the License Agreement (the "Amendment") to comply with the terms of the Agreement between the Authority and the Licensee, dated effective November 1, 2006 (the "Naming Agreement"), relating to the approval of a naming and sponsorship agreement between the Licensor and Oracle Corporation ("Oracle").

AMENDMENT

1. All defined terms in this Amendment shall have the meanings ascribed to such terms in the License Agreement unless defined herein.
2. Except as may otherwise be specifically provided herein, this effective date of this Amendment shall be November 1, 2006.
3. Section 10.3.3 of the License Agreement is hereby amended to add the following as end thereof:

"Notwithstanding the foregoing, so long as the Oracle Agreement is in full force and effect, the disposition of the Net Annual Proceeds shall be governed entirely by the Naming Agreement, as such agreement may be amended in writing by the parties thereto."
4. Counterparts. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but such counterparts together shall constitute but one and the same Amendment.

5. Effect of Amendment: Except as otherwise specifically supplemented or modified by this Amendment, all terms and provisions of the License Agreement shall remain unmodified and in full force and effect. This Amendment shall constitute the entire agreement among the parties relating to the subject matter hereof, and shall supersede any negotiations, understandings, or agreements, written or oral, relating to the subject matter hereof, and shall not be changed or terminated orally.

In witness whereof, the parties hereto have caused their duly authorized representatives to execute this Amendment No. 3 to the License Agreement as of November 1, 2006.

OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY

By _____

Chair

Attest: _____

Secretary

GOLDEN STATE WARRIORS (formerly CC Partners)

By _____

Approved by:

CITY OF OAKLAND

Approved as to form by:

By: _____

COUNTY OF ALAMEDA

Approved as to form by:

By _____

ATTACHMENT C

Accounting of initial expenses

Schedule of Naming Rights Expenses

Presentations to Prospects:

Arena Production	42,375.07
Signage	13,252.17
Travel	14,667.39

Consulting & Legal:

Bonham Group	
-Retainer	112,500.00
-Market Analysis	18,750.00
-Administrative Costs	6,045.04

Holme Roberts & Owen	11,311.25
Adamski, Moroski, Madden & Green	44,675.08

Total Naming Rights Expenses	<u><u>263,576.00</u></u>
-------------------------------------	---------------------------------

ATTACHMENT D

Calculation of disposition of revenues – Year 1

Elements - 2006/07	Amount
Oracle Payment	3,000,000
Less: Bonham Group Commission 5%	(150,000)
Less: Licensee One Time Costs	(263,576)
Less: Oracle Account Deposit	(300,000)
Less: Sponsorship Rights Costs	(483,180)
Total Costs	(1,196,756)
Naming Rights Payment/Net Annual Proceeds	1,803,244

Distribution of Naming Rights Payment

	<u>JPA</u>	<u>GSW</u>
1st \$250,000	250,000	
Next \$500,000		500,000
Sub-Total		(750,000)
Amount Subject to Split		1,053,244
JPA Split 40%	421,298	
GSW Split 60%	_____	631,946
Total Naming Rights Payment	671,298	1,131,946