



Oakland-Alameda County

Coliseum Authority

**OAKLAND-ALAMEDA COUNTY COLISEUM
AUTHORITY NOTICE AND AGENDA
SPECIAL MEETING**

BOARD OF COMMISSIONERS MEETING

Conference Room

7000 COLISEUM WAY

OAKLAND, CA 94621

Wednesday, April 5, 2017

9:00 A.M

1. CALL TO ORDER

2. ROLL CALL

3. OPEN FORUM

4. EXECUTIVE DIRECTOR REPORT

5. NEW BUSINESS

5a. 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

6. CLOSED SESSION

Pursuant to California Government Code Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

6a. Property: 7000 Coliseum Way Oakland, CA 94621

-Agency Negotiator: Scott McKibben, Executive Director Oakland Alameda County Coliseum Authority

-Negotiating Parties: Rick Welts, President and COO, Golden State Warriors

-Under Negotiation: Price and terms of payment for license agreement extension

7. REPORT FROM COUNSEL ON CLOSED SESSION

8. ADJOURNMENT



Oakland-Alameda County
Coliseum Authority

**Executive Director's Report
OACCA
April 5, 2017**

Raiders Audit Update:

For the last few months we have been involved in an audit process with the Oakland Raiders. Most issues have been addressed and resolved with one exception.

The Raiders still owe the JPA for past due parking revenues. We have several times requested additional necessary data to accurately compute what they owe us and only most recently did we receive the data for the 2016 season only.

We have once again requested through their attorneys the data for 2013, 2014 and 2015 seasons. After receiving that we will compute the actual amount owed. This default does have an impact on the option to extend their lease.

Pursuant to Supplement No. 6, the Raiders shall not have the right to exercise the 2017-2018 option if the Raiders are in monetary default under the Master Agreement. However, if the Raiders in good faith dispute any alleged monetary default assessed by the JPA, the Raiders shall have the right to exercise the 2017-2018 option provided Raiders pay the amount of funds in dispute into an escrow account for the benefit both the JPA and Raiders pursuant to a commercially reasonable agreement mutually agreed upon by JPA and Raiders.

The JPA has sent the Raiders a default notice for failure to pay the full amount of parking fees to the JPA. The Raiders are aware of this issue and have deposited funds into a segregated account to be transferred into an escrow account once the parties have negotiated the Escrow Agreement that has been provided by the Raiders. If the dispute cannot be resolved, it shall be promptly submitted to arbitration in accordance with Section 27 of the Operating License.



Oakland-Alameda County
Coliseum Authority

STAFF REPORT

Item 5a. Resolution Approving and Authorizing the Execution of Amendment No. 4 to Oakland-Alameda County Coliseum Arena License Agreement between the Golden State Warriors, LLC and the Oakland Alameda County Coliseum Authority.

Background. On May 20, 2011, the Board of Commissioners of the Oakland-Alameda County Coliseum Authority (OACCA) approved settlement of the claims at issue in the arbitration dispute between the Authority and the Golden State Warriors (GSW). The settlement resulted in Amendment No. 3 of the Oakland-Alameda County Coliseum Arena License Agreement Golden State Warriors.

The Current term of the lease expired on June 30, 2016. The Golden State Warriors are looking to extend their lease to cover an adequate period to use Oracle Arena until their new arena in San Francisco is completed.

Proposal. A summary of the proposed terms of the Amendment No.4 are described below. A full form of the Amendment is attached.

- **Term.** Two-year extension with three successive one year options.
- **Rent Payments.** Guaranteed minimum of \$7.5M over the term in rent and naming rights (5 years x \$1.5M)

Warriors will pay \$2.5M per year as base rent, plus naming rights for the extension term and every option. The Authority retains all its playoff revenue for the extension term and every option.

If the Warriors do not exercise option on Year 3 they pay the Authority an exit fee of \$2.5M

If the Warriors exercise option on Year 3 only, they will pay 2.5M as base rent, plus naming rights an exit fee of \$1.5M.

If the Warriors exercise option on Years 3 and 4 only, they will pay \$2.5M as base rent, plus naming rights and an exit fee of \$500,000.

If the Warriors exercise Year 5, they will pay 2.5M as base rent plus naming rights, but there is no exit fee.

All other sources of revenue remain the same.

- **Project Debt:** Warriors will continue to pay approximately \$7.5M to project debt for every year they play at Oracle.



Oakland-Alameda County
Coliseum Authority

Authority preserves all its rights to repayment of entire debt as stipulated in Master Licensing agreement

Further Approvals: The Management Agreement, between the Authority, City of Oakland and the County of Alameda, requires that each of the City and the County approve the amendment.

Recommendation: Staff recommends that the Authority adopt the 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

Scott McKibben
Executive Director

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 Licensors has assigned or transferred any interest in the License Agreement and Licensee and Licensors 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 Licensors 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