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BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT WITH ATHLETICS INVESTMENT GROUP LLC, DBA THE OAKLAND ATHLETICS, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR A TERM OF ONE YEAR FOR A DEPOSIT AMOUNT OF \$100,000 FOR PROPERTY LOCATED AT 1 MARKET STREET, OAKLAND.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.2, dated April 26, 2018 (the "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, Section 706 of the Charter of the City of Oakland ("City") gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

WHEREAS, the proposed action will provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the agreements will not interfere with the Tidelands Trust; now, therefore

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 RESOLVED AS FOLLOWS:

SECTION 1. The Board hereby approves and authorizes the Executive Director to execute an Exclusive Negotiating Agreement with **Athletics Investment Group, LLC, dba the Oakland Athletics, a California Limited Liability Company**, for a term of one (1) year for a deposit amount of \$100,000 for property located at 1 Market Street, Oakland, as further described in the Agenda Report and subject to approval as to form and legality by the Port Attorney.

SECTION 2. Based upon the information contained in the Agenda Report and in testimony received, the Board finds and determines the following:

- A. The Port owns certain lands commonly referred to as the Charles P. Howard Terminal, Berths 67-68 ("Port Lands"), which are designated as a Port Priority Use Area pursuant to the "San Francisco Bay Area Seaport Plan" of the San Francisco Bay Conservation and Development Commission; and
- B. The Port Lands consist of granted lands and after-acquired lands that are subject to certain public trust limitations applicable to tidelands and submerged lands; and
- C. The Port is currently using the Port Lands for maritime support uses; and
- D. Athletics Investment Group, LLC, dba the Oakland Athletics, a California Limited Liability Company ("Developer") now wish to enter into an Exclusive Negotiating Agreement to negotiate the form of a potential option agreement with attached forms for ground lease and other negotiated transaction documents that would allow Developer to develop and operate all or a portion of the Port Lands as a world-class waterfront ballpark and to develop beneficial and related ancillary uses; and
- E. The proposed approval is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility the proposed agreement and activity in question may have a significant effect on the environment since it does not bind or commit either party to a future course of action, does not include the approval of any project for the site, and does not include the approval of any change in land use pattern for the site.

SECTION 3. This resolution is not evidence of and does not create or constitute (a) a contract, 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 agreement is duly executed on behalf of the Board as authorized by this resolution, 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 agreement.

SECTION 4. This resolution shall be effective immediately upon adoption by the Board.