

BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN ASSIGNMENT OF AN EXISTING GROUND LEASE AND RELATED AGREEMENTS FROM 10 CLAY STREET, LLC TO OAKLAND CLAY PARTNERS, LLC FOR PROPERTY LOCATED AT 10 CLAY STREET, OAKLAND.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.3, dated September 13, 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, 10 Clay Street, LLC ("Lessee") currently: is the lessee for property located at 10 Clay Street, Oakland ("Property") under a ground lease ("Ground Lease"); possesses interest in the Operating Agreement and Agreement for the Acquisition of Ground Lease Interests that pertain to the Property; and is party to the Property Rental Agreement related to two parking spaces located on Clay Street; and

WHEREAS, on July 13, 2018, Lessee submitted a request for Port approval to assign their interests in the Ground Lease and related agreements to Oakland Clay Partners, LLC, an affiliate of the Oakland Athletics; and

WHEREAS, on July 18, 2018, the Port provided notice of the proposed assignment to the State Lands Commission, as required by the 2005 Stipulated Judgment for the Jack London Square Project, and on July 26, 2018, the State Lands Commission indicated in writing that it does not object to the proposed assignment; and

WHEREAS, Section 706 of the City Charter 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 is consistent with the Port's duty to use and manage Port property in trust for the State of California (the "Tidelands Trust"), and the continued private use of Port property pursuant to the Ground Lease and related property agreements will not interfere with the Tidelands Trust; 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 RESOLVED AS FOLLOWS:

Section 1. The Board hereby finds and determines as follows:

A. Oakland Clay Partners, LLC has the financial wherewithal and operational experience to meet the requirements for approval of an assignment of the Ground Lease and related property agreements, and the proposed assignment does not violate an existing policy adopted by the Board; and

B. The proposed assignment is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, which exempts 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. Approval of the proposed action falls within this class of exemptions. No additional environmental review is required to take the action recommended in the Agenda Report.

Section 2. The Board hereby:

A. Approves the assignment of the Ground Lease and related property agreements to **Oakland Clay Partners, LLC**, as further described in the Agenda Report; and

B. Authorizes the Executive Director to execute any documents or agreements necessary to effectuate the proposed transactions, subject to approval as to form and legality by the Port Attorney. Furthermore, if the subject assignment is not fully effective within sixty (60) days after Board approval, the approval shall be null and void, unless extended at the sole and absolute discretion of the Executive Director or his designee.

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. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract 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 contract.

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

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