



 City Attorney

 FILED
 OFFICE OF THE CITY CLERK
 OAKLAND

2016 MAR 30 AM 10:09 OAKLAND CITY COUNCIL

 RESOLUTION No. 86118 C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO 1) EXECUTE A THIRD AMENDMENT TO THE SUBLEASE AND OPERATING AGREEMENT WITH OAKLAND GOLF, LLC FOR THE OPERATION OF METROPOLITAN GOLF LINKS COURSE TO RESTRUCTURE THE MINIMUM ANNUAL GUARANTEE RENT AMOUNT TO \$400,000, AMEND THE PERCENTAGE RENT OF GROSS REVENUE FROM GOLF ACTIVITIES TO 13.5%, AND MODIFY THE SUBLEASE TERM TO TWENTY-TWO YEARS; AND 2) EXECUTE A SETTLEMENT AGREEMENT WITH OAKLAND GOLF, LLC TO RESOLVE PAYMENT OF DELINQUENT RENT

WHEREAS, Metropolitan Golf Links is an 18-hole regulation public golf course located at the northeast corner of the Oakland International Airport and was developed on the site of the former City of Oakland Galbraith Municipal Golf Course (“Premises”); and

WHEREAS, the Port of Oakland (“Port”) is the lessor of that real property and the City of Oakland (“City”) is the lessee pursuant to the Lease dated as of June 1, 1965, as amended by the Amended and Restated Lease dated March 16, 1999, as amended by the First Supplemental Agreement dated July 1, 2000, the Second Supplemental Agreement dated July 11, 2001, the Third Supplemental Agreement dated July 1, 2008, and the Fourth Supplemental Agreement dated March 24, 2015, collectively referred to herein as the “Lease”; and

WHEREAS, in 2001 with the Port’s consent the City subleased the Premises to Oakland Golf LLC in an agreement entitled “Sublease and Operating Agreement” dated August 24, 2001, as amended by the First Amendment to the Sublease and Operating Agreement dated July 1, 2008 and the Second Amendment to the Sublease and Operating Agreement dated March 24, 2015, collectively referred to herein as the “Sublease” for the purpose of operating and managing the Metropolitan Golf Links Golf Course, a public golf course, (the “Course”); and

WHEREAS, between 2001 and 2003 Oakland Golf LLC completed a \$14 million capital improvement project at Metropolitan Golf Course, \$9.5 million of which was funded by Oakland Golf LLC, and \$4.5 million of which was funded by the Port and the City; and

WHEREAS, the City Council approved Resolution No. 81274 C.M.S. on May 6, 2008 and the Port approved Resolution No. 08177 on July 15, 2008 providing a five-year, fifty percent (50%) rent relief package through Fiscal Year 2012-13, subject to annual review, in the total amount of approximately \$1 million, and the Second Amendment to the Sublease was executed, in order to continue the economic viability of the enterprise; and

WHEREAS, the City Council approved Resolution No. 84678 C.M.S. on November 5, 2013 extending the rent relief through the Fiscal Year 2013-14, however, the Port did not approve the additional year of rent relief and instead negotiated and entered into a "Settlement Agreement with Respect to Metropolitan Golf Links Fiscal Year 2013-2014 Rental Obligations" authorized by Port Resolution No. 14-83 and Oakland City Council Resolution No. 85458 C.M.S.; and

WHEREAS, since the expiration of the rent relief package, Oakland Golf LLC has continued to submit payment of approximately \$300,000 in rent, approximately 50% of the full rental obligation; and

WHEREAS, in May 2013, Pro Forma Advisors, LLC conducted an evaluation of the rent structure for the Metropolitan Golf Links and recommended a permanent Minimum Annual Guarantee rent amount of \$248,000, which is less than the 50% rent relief, and unacceptable to the City and Port; and

WHEREAS, it is in the interest of all parties to modify the Sublease toward a supportable and sustainable rent structure; now, therefore, be it

RESOLVED: That the City Administrator or her designee is hereby authorized to execute a Third Amendment to the Sublease and Operating Agreement with Oakland Golf LLC to restructure the Minimum Annual Guarantee rent amount from \$624,097 to \$400,000, amend the percentage rent of gross revenue from golf activities from 20% to 13.5%, and modify the sublease term to remove one of Oakland Golf's five-year options to renew decreasing the maximum term from twenty-seven years to twenty-two years; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to execute a Settlement Agreement to resolve payment of delinquent rent and have Oakland Golf LLC make payment in the full amount of approximately \$566,000 due in equal, interest-free monthly payments over a 48-month period; and be it

FURTHER RESOLVED: That the Office of the City Attorney shall approve the Third Amendment to the Sublease and Operating Agreement and the Settlement Agreement as to form and legality and copies will be on file in the Office of the City Clerk.

APR 19 2016

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

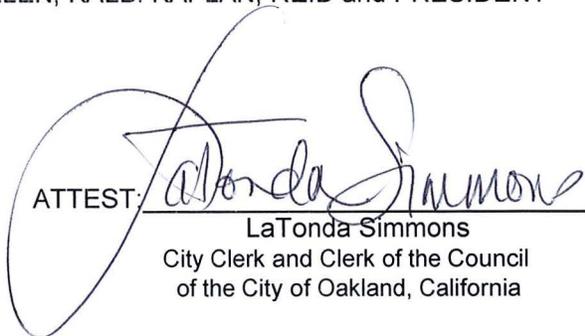
AYES - ~~BROOKS~~, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB. KAPLAN, REID and PRESIDENT GIBSON MCELHANEY - 7

NOES - 0

ABSENT - 0

ABSTENTION - Brooks - 1

ATTEST:


LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California