

[Signature]
Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. 81274 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE (1) THE THIRD SUPPLEMENTAL AGREEMENT TO THE LEASE BETWEEN THE PORT AND THE CITY AND (2) THE FIRST AMENDMENT TO THE SUBLEASE, BETWEEN THE CITY AND OAKLAND GOLF LLC, WHICH BOTH SET FORTH THE FOLLOWING MODIFICATIONS REGARDING THE OPERATION OF METROPOLITAN GOLF LINKS: UP TO FIVE YEARS OF RENT RELIEF, CONDITIONAL ON CITY COUNCIL APPROVAL FOR EACH SUBSEQUENT YEAR, IN THE PROJECTED AMOUNT OF NO MORE THAN \$1 MILLION, RESULTING IN A LOSS OF ANTICIPATED REVENUE TO THE GOLF ENTERPRISE FUND OF APPROXIMATELY NO MORE THAN \$500,000 OVER THE FIVE YEAR PERIOD AND OTHER CHANGES TO THE SUBLEASE INCLUDING DELETION OF REAL PROPERTY TO ACCOMMODATE THE BAY TRAIL, HIRING, RENT CREDITS, USE OF FACILITIES BY CITY, NAVIGATIONAL AIDES, AND ADMINISTRATIVE DATES OF SUBLEASE.

WHEREAS, Metropolitan Golf Links is an 18-hole regulation public golf course developed on property owned by the adjoining Oakland International Airport and was designed 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 Amended and Restated Galbraith Golf Course Lease dated March 16, 1999 as amended by the First Supplemental Agreement and the Second Supplemental Agreement ("Lease"); and

WHEREAS, the City, with the Port's consent, in 2001, subleased the Premises to Oakland Golf LLC in an agreement entitled "Sublease and Operating Agreement" ("Sublease") for the purpose of operating and managing the Metropolitan Golf Links; 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, Oakland Golf LLC has requested a temporary reduction in its rent for Sublease years 6 through 10 in the total amount of approximately \$1 million over the next five years in order to continue the economic viability of the enterprise; and

WHEREAS, without rent relief, Oakland Golf LLC would be forced to cut costs, which would lower maintenance standards at the course; and

WHEREAS, to accomplish the desired rent relief, it was necessary for the staff from the City and Port to modify and amend two separate documents: 1) the Third Supplemental Agreement to the Amended and Restated Lease between the Port and the City, and 2) the First Amendment to the Sublease and Operating Agreement between the City and Oakland Golf LLC, both of which are presented to the City Council for approval; and

WHEREAS, the City and Port desire to amend the Lease to delete a portion of the land constituting the Leased Premises from the Lease in order to efficiently accommodate the proposed Bay Trail; and

WHEREAS, the Bay Trail is planned to provide pedestrian and bicycle access along the edge of the San Francisco Bay; and

WHEREAS, the portion of the proposed Bay Trail in the vicinity of the Course requires approximately 10,000 square feet of land which is currently leased by the Port to the City and subleased by the City to Oakland Golf; and

WHEREAS, the City and Oakland Golf LLC, with the Port's consent, desire to restate the provision of the Sublease, regarding Oakland Golf LLC's obligation to actively recruit and hire Oakland residents as monitored by Contract Compliance; and

WHEREAS, the Parties desire to clarify the Sublease provision that Oakland Golf LLC shall not assign this Sublease, or sublet any portion of the Subleased Premises without the prior written consent of the City Council and Port; and

WHEREAS, Oakland Golf LLC and the Regents of the University of California ("U.C. Berkeley") have entered into a license agreement whereby Oakland Golf LLC has provided a portion of the golf course for the exclusive use of the UC Berkeley golf team for a short game practice facility, and has reserved other areas of the golf course for priority use by its golf team and that the City shall have use of the short-game practice facility for City of Oakland youth golf program instruction at all times as performed by Metropolitan Golf Links or agreed upon operator; and

WHEREAS, Oakland Golf LLC and U. C. Berkeley desire that should the Sublease between the City and Oakland Golf LLC be suspended or terminated for any reason, the rights of UC Berkeley as licensee of the short game practice facility shall be assumed by the City pursuant to a new agreement; and

WHEREAS, the City desires to use the course twice annually for golf tournaments and to use the clubhouse no more than 12 times each year for events and that the revenue from those events will accrue to the City's General Purpose Fund; and

WHEREAS, the Parties acknowledge that the Federal Aviation Administration (FAA) has the right to enter onto the course to erect, install, maintain and operate airport navigational aids; and

WHEREAS, the effective dates of the current Sublease are amended to be in alignment with the City's fiscal year, so that the increases in Minimum Rent will be effective commencing July1 for each year; and

WHEREAS, the two Sections concerning rent credits are deleted from the current Sublease: (1) "EBMUD Reclaimed Water Credits", which provided certain rent reductions based on the cost of obtaining irrigation water, and (2) "CIP (Capital Improvement Project) Rent Credit", which permitted rent credit against the contractual rent; now therefore be it

RESOLVED, that City Council accepts and approves and hereby authorizes the City Administrator to execute the Third Supplemental Agreement to the Amended and Restated Ground Lease, between the Port of Oakland and City, as presented to the City Council; and be it

FURTHER RESOLVED, that City Council accepts and approves and hereby authorizes the City Administrator to execute the First Amendment to the Sublease and Operating Agreement, between the City of Oakland and Oakland Golf LLC, as presented to the City Council; and be it

FURTHER RESOLVED, that the City Council agrees that the City may enter into an agreement with UC Berkeley for the short-game practice facility in the event that the Sublease is suspended or terminated prior to its expiration date; and be it

FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution as to form and legality and a copy will be on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 6 2008, 2008

PASSED BY THE FOLLOWING VOTE:

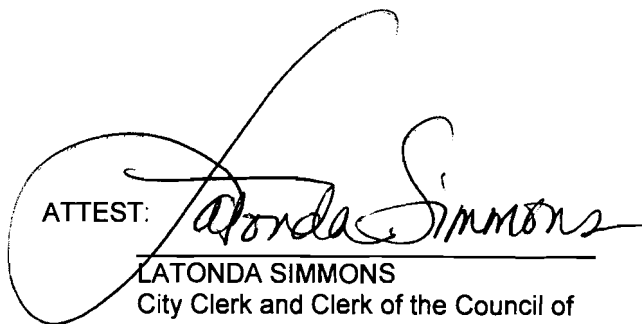
AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND
PRESIDENT DE LA FUENTE - 7

NOES - Nadel - 1

ABSENT - 0

ABSTENTION - 0

ATTEST:


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