

B. Plebani
FILED
OFFICE OF THE CITY CLERK
OAKLAND
03 MAR 13 PM 1:00

OAKLAND CITY COUNCIL

RESOLUTION No. 77710 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH THE PORT OF OAKLAND AND OAKLAND GOLF, LLC REGARDING DISPUTES BETWEEN THE PORT OF OAKLAND AND OAKLAND GOLF, LLC RELATING TO THE DEVELOPMENT OF THE GOLF COURSE PROJECT AT THE FORMER LEW F. GALBRAITH GOLF COURSE, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO THE SETTLEMENT AGREEMENT WITHOUT RETURNING TO CITY COUNCIL FOR FURTHER APPROVAL

WHEREAS, the City of Oakland, Port of Oakland and Oakland Golf, LLC are parties to a Funding and Development Agreement, the Port and the City are parties to a Lease Agreement, and the City and Oakland Golf, LLC are parties to a Sublease and Operating Agreement for the Metropolitan Golf Links (formerly called the Galbraith Golf Course), all for the purpose of developing and operating a daily fee municipal golf course; and

WHEREAS, a dispute arose between the Port of Oakland and Oakland Golf, LLC in which Oakland Golf, LLC alleged delays by the Port in turning over the property to Oakland Golf; defective construction by the Port's contractor; debris being placed in the location for the new clubhouse and cart barn; damage to perimeter fences; insufficient material available to complete construction; and clogged drains during 2001-02 winter storms that allegedly resulted in delays and unexpected construction costs for Oakland Golf, LLC; and

WHEREAS, lengthy negotiation between the Port, Oakland Golf, LLC and the City of Oakland resulted in a settlement of the dispute pursuant to which the Port will pay to the Oakland Golf, LLC construction account the amount of eight hundred seventy five thousand dollars (\$875,000) and make certain repairs and corrections to the property to settle the dispute and finalize the Port's financial responsibilities for the site work related to the dispute; and

WHEREAS, Oakland Golf, LLC is obligated to open the new golf course on or before June 1, 2003, to open the driving range on or before July 15, 2003 and to open the clubhouse on or before August 30, 2003; and

WHEREAS, there is no cost to the City of Oakland as a result of the settlement of the dispute, but the City is a party to the settlement agreement because the City leases Port property for the golf course and subleases it to Oakland Golf and is also the contracting party with Oakland Golf, LLC for the construction of the golf course; and

WHEREAS, it is in the City's best interest to resolve this matter because the Metropolitan Golf Links' construction is nearly completed and the operational phase is about to begin and Oakland Golf needs the funds from the Port and the repair and correction of the items to be repaired and corrected by the Port in order to complete construction of the golf course; now, therefore be it

RESOLVED: That the City Manager or his designee is hereby authorized to complete negotiations for, enter into, and execute the settlement agreement with the Port of Oakland and Oakland Golf, LLC regarding the dispute between the Port of Oakland and Oakland Golf, LLC relating to the development of the golf course project at the former Galbraith Golf Course as described herein without returning to the City Council for further approval; and be it

FURTHER RESOLVED: That the Office of the City Attorney shall approve the settlement agreement as to form and legality, and a copy thereof will be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

MAR 25 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND
PRESIDENT DE LA FUENTE -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:

DEBRA FLOYDA
City Clerk and Clerk of the Council
of the City of Oakland, California