

2015 FEB 25 PM 12:33


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No: 85 458 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO: 1) EXECUTE A SETTLEMENT AGREEMENT WITH THE PORT OF OAKLAND AND OAKLAND GOLF LLC WITH RESPECT TO METROPOLITAN GOLF LINKS GOLF COURSE FISCAL YEAR 2013/2014 RENTAL OBLIGATIONS; 2) EXECUTE A FOURTH SUPPLEMENTAL LEASE AGREEMENT WITH THE PORT FOR THE LEASE OF THE METROPOLITAN GOLF LINKS GOLF COURSE; AND 3) EXECUTE A SECOND AMENDMENT TO THE SUBLEASE AND OPERATING AGREEMENT WITH OAKLAND GOLF LLC FOR THE OPERATION OF THE METROPOLITAN GOLF LINKS GOLF COURSE

WHEREAS, Metropolitan Golf Links Golf Course 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 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, and the Third Supplemental Agreement dated July 1, 2008, 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", as amended by the First Amendment to the Sublease and Operating agreement ("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, in 2008 Oakland Golf LLC requested a temporary reduction in the rent under the Sublease in order to continue the economic viability of the enterprise; and

WHEREAS, the City and the Port agreed to reduce the rent and executed an amendment to the Sublease that provided for a 50% rent relief in the amount of approximately \$1 million over five years; and

WHEREAS, pursuant to Resolution No. 84678 C.M.S. passed November 5, 2013 the City Council approved one additional year of rent relief for Fiscal Year 2013-14, however the Port did not approve additional rent relief and no amendment to the Lease or Sublease was executed; and

WHEREAS, Oakland Golf LLC paid approximately \$300,000 in rent for Fiscal Year 2013-14, approximately 50% of the full rental obligation; and

WHEREAS, the City and Port now desire to amend the Lease and Sublease to release Oakland Golf LLC from all remaining rental obligations for Fiscal Year 2013-14 and to delete a roughly 18,000 square foot portion (the "Eden Road Parcel") of the land constituting the Leased Premises from the Lease in order to potentially accommodate an expansion of Eden Road and requiring Oakland Golf LLC to relocate and/or replace the driving range fencing along the Eden Road parcel; and

WHEREAS, the Settlement agreement releasing Oakland Golf LLC from the full rent payment for Fiscal Year 2013-14 will result in a loss of \$149,176 to the City's Golf Enterprise Fund; now, therefore, be it

RESOLVED: That the City Administrator is hereby authorized to execute a settlement agreement to release Oakland Golf LLC from all remaining Metropolitan Golf Links Golf Course rental obligations for Fiscal Year 2013-14, and delete the Eden Road Parcel from the leased Premises, and require Oakland Golf LLC to relocate or replace the driving range fencing along the Eden Road Parcel; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to execute a Fourth Supplemental Lease Agreement to amend the leased Premises by deleting the Eden Road Parcel; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to execute a Second Amendment to the Sublease and Operating Agreement with Oakland Golf LLC to amend the leased Premises by deleting the Eden Road Parcel; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 17 2015 2015

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, CAMPBELL WASHINGTON, ~~REID~~, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON-MCELHANEY - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Gallo - 1

ATTEST: Latonda Simmons

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