



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 08/25/09

SUBJECT: Settlement Agreement Bid No.: 08-07 Coraci Sports Park

Department: City Attorney's Office

Recommended Motion: Approve the Settlement Agreement reached at mediation on August 3, 2009, and authorize the Mayor and the City Manager to execute any and all documents necessary to effectuate the Settlement Agreement.

Summary: The Settlement Agreement is intended to close out the contract with Saboungi Construction Co., on Bid No.: 08-07 for the construction of Coraci Sports Park and to resolve all outstanding claims among subcontractor CrossRoad Site Development & Underground Utilities, Inc., the City of Port Orange, Saboungi Construction Co., and Halifax Paving, Inc.

*Funding in Account # 611-5100-63-97 \$87,723.75 Project OPC024
Account # 307-1000-63-97 21,652.59 Project 21-02"*

ATTACHMENTS: Ordinance Resolution Budget Resolution
 Other Support Documents

DEPARTMENT HEAD

Margaret T. Roberts, City Attorney

Date

8/18/09

FINANCE DEPARTMENT

[Signature]
Approved as to Budget Requirements

Date

CITY ATTORNEY

[Signature]
Approved as to Form and Legality

Date

8.17.09

CITY MANAGER

[Signature]
Approved Agenda Item For:

8/25/09

COUNCIL ACTION: Approved as Recommended Disapproved Tabled Indefinitely
 Continued to Date Certain Approved with Modification:

Settlement Agreement

① This Agreement is contingent upon approval by the City Commission of Port Orange Florida. The undersigned representatives of City of Port Orange agree to use their best efforts to recommend such adoption and approval by the City Commission and to take such steps as necessary to cause such approval to be placed on the agenda for the City Commission's next regularly scheduled meeting.

② Predicated upon the approval described in ¶ ① above, City shall

(a) pay Saboungi Construction Co. the total sum of \$ 109,376.34 in full satisfaction of all amounts due Saboungi for construction materials and ~~services~~ services provided for in that certain contract dated April ~~2008~~², 2008 for Coraci Sports Park Bid No. 08-07.

(b) pay Crossroad Site Development & Underground Utilities, LLC the total sum of \$ 100,000.00 in full and complete satisfaction of all claims Crossroad may have as to City of Port Orange, Halifax Paving, Inc. Saboungi Construction Co. and

its surety, arising from or involving all damages sustained as a result of alleged late deliveries of fill dirt to the Coraci Sports Park Project. Such payment to be made by joint check payable to Saboungi and Crossroad

- ③ Upon receipt of such funds, Saboungi Construction Co. shall immediately pay Crossroad the total sum of \$37,742.94 in full settlement of all amounts due from Saboungi to Crossroad arising under that certain Subcontract dated April 4, 2008 by and between Saboungi and Crossroad relating to construction materials and services rendered to the Coraci Sports Park Project.

~~④ Payment of all funds due to~~
~~the City of Port Orange~~

- ④ Halifax Paving, Inc. shall pay City of Port Orange the total ~~sum~~ sum of \$ 40,000.00 in cash and \$60,000.00 in services for hauling fill dirt as requested by City. Such ^{cash} payment to be made on or before 10 days following adoption and approval of the Settlement Agreement as required in TP ① above. Value of services to be provided herein shall be based upon Halifax's current contract with the City of Port Orange.

- ⑤ All releases exchanged in consideration for the payments required under this Settlement Agreement shall be ~~also~~ subject to mutual approval and agreement of all counsel as to form. Any disputes as to form of release shall be resolved by mediation. Releases and contract close out documents required by the contract described in TP 2(c) shall be executed and delivered by ~~the~~ all parties.
- ⑥ Each party shall pay its own legal fees and costs.

Myra J. Petral
City of Port Orange Fla.

Bruce Norris
Counsel for City

M. Khabazeh
Sabounji Construction Co.

Richard J. Stanley
Counsel for Sabounji

Will Jones
Cross Road Site Development
& Underground Utilities, Inc

W. Jones
Counsel for Cross Road

James E. Quinn
Halifax Paving, Inc
President.

Michael C. Lavo
Counsel for Halifax