

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING AND AUTHORIZING THE SETTLEMENT OF LITIGATION BETWEEN THE CITY OF HOLLYWOOD, FLORIDA, CITY OF HOLLYWOOD DOWNTOWN COMMUNITY REDEVELOPMENT AGENCY, AND CB CONDOMINIUMS, INC., IN THE AMOUNT OF \$200,000.00.

WHEREAS, on or about October 21, 2003, the CITY, CRA, and the Berman Development Group ("BDG") entered into a Development Agreement and Parking Lease Agreement ("Developer Agreement"); and

WHEREAS, pursuant to the Developer Agreement, the developer BDG was obligated to develop two residential towers and a City-owned public parking garage, now known as the Radius Parking Garage, located at 951 N. 19th Avenue, Hollywood, Florida ("Garage"); and

WHEREAS, on or about December 7, 2004, BDG assigned to Hollywood Young Circle, LP ("HYC") certain of its development rights and obligations under the Developer Agreement; and

WHEREAS, pursuant to that assignment, HYC was assigned the right to develop all phases of development under the Developer Agreement, including the Garage; and

WHEREAS, HYC hired CBI as the General Contractor for construction of the Garage; and

WHEREAS, the construction of the Garage was completed on November 6, 2009 upon the issuance of the Certificate of Occupancy for the Garage; and

WHEREAS, in 2016, the City discovered various issues with the Garage, including but not limited to newly formed cracks/spalling within the Garage and issues related to ponding of water; and

WHEREAS, as a result of the physical issues that were noticed, the City retained engineers to inspect the Garage and render a report regarding the various defects; and

WHEREAS, as a result of the issues that were discovered by the engineers, a third party complaint/counterclaim was filed by the City and CRA against CBI and HYC, Case No. CACE-15-020788 in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida ("Litigation"); and

WHEREAS, the CITY, CRA and CBI are desirous of settling all existing disputes and claims between them; and

WHEREAS, the parties have reached a full and final compromise and settlement of all matters, causes of action, claims and contentions between them as set forth in the Litigation; and

WHEREAS, CBI agrees to pay the City the total sum of \$200,000.00, to be paid in one lump sum within ten (10) days of the execution of the Settlement Agreement; and

WHEREAS, upon the execution of the Agreement and payment of the settlement proceeds by CBI, the parties will execute a general release in favor of each other for any and all claims arising from or related to the Litigation; and

WHEREAS, within five days of the execution of the Agreement and receipt of the settlement amounts, the CITY and CRA will file a motion for and stipulation of dismissal, with prejudice, in the Litigation; and

WHEREAS, the stipulation will provide that each party shall be responsible for their respective attorney's fees and costs, and shall request that the court retain jurisdiction to enforce the terms of the Agreement; and

WHEREAS, the Agreement represents the compromise of claims between the parties and is not an admission of liability by any party.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That the above-described settlement is approved, with all settlement funds payable to the City.

Section 3: That the appropriate City officials are authorized to take all steps necessary to implement the settlement.

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Section 4: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2021.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance
of the City of Hollywood, Florida only:

DOUGLAS R. GONZALES
CITY ATTORNEY