

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO IMPLEMENT A SETTLEMENT WITH INDIRA DUARTE IN AN AMOUNT NOT TO EXCEED \$169,000.00.

WHEREAS, on August 4, 2017, Indira Duarte's employment with the City as a code enforcement officer was terminated for inappropriate behavior at the workplace; and

WHEREAS, Ms. Duarte filed a grievance, claiming that the termination was without just cause; and

WHEREAS, the grievance was heard and denied at steps 1 and 2, and Ms. Duarte then demanded arbitration as provided in the AFSCME collective bargaining agreement (the "CBA"); and

WHEREAS, arbitration was scheduled to begin on January 30, 2018, but staff and Ms. Duarte negotiated a settlement of the grievance and of her claim under the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), a federal law that protects the employment rights of members of the armed forces; and

WHEREAS, Ms. Duarte, who is in the military reserves, claims that the City did not treat her properly when she was called up for training and/or active duty; and

WHEREAS, while the City Attorney believes such claim is without merit, the negotiated settlement is a compromise of both the grievance and the USERRA claim; and

WHEREAS, the settlement requires the City to pay \$140,000.00 to Ms. Duarte, \$25,000.00 to her attorney, and the full amount of the arbitrator's cancellation fees, and it requires Ms. Duarte to withdraw the grievance and release the City from her USERRA claim and from any and all other claim(s) she may have against the City; and

WHEREAS, under the CBA, arbitrator's fees are paid by the party that does not prevail, but in the negotiated settlement, the City would pay the full amount of the arbitrator's fees; and

WHEREAS, the arbitrator's cancellation fee is \$1,400.00 per day (the arbitration was scheduled for two days) plus out-of-pocket expenses for hotel, meals, etc.; and

WHEREAS, the exact amount of the arbitrator's fees is not yet known, but it will not exceed \$4,000.00, bringing the total amount recommended to be authorized by the City Commission to an amount not to exceed \$169,000.00; and

WHEREAS, the City Attorney recommends that the City Commission approve the negotiated settlement.

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.

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

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

PASSED AND ADOPTED this _____ day of _____, 2018.

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