

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 BETWEEN HERBERT HELFEN AND THE CITY FOR INDEMNITY BENEFIT PAYMENTS FOR A WORKERS' COMPENSATION CLAIM IN AN AMOUNT NOT TO EXCEED \$175,000.00.

WHEREAS, the City of Hollywood ("City") has been advised by its workers' compensation attorney that the best course of action at this time would be to resolve the indemnity portion of Herbert Helfen's workers' compensation claim; and

WHEREAS, this October 28, 2005 claim, which the third party administrator found to be compensable, is for multiple injuries which resulted when Mr. Helfen fell from the back of a moving fire truck and fell several feet to the ground. Mr. Helfen returned to light duty on August 07, 2006 and continued to work in a light duty position until his normal retirement on May 30, 2009; and

WHEREAS, on June 26, 2017, Mr. Helfen filed a Petition for Benefits requesting among other things 1) Temporary Total Disability ("TTD") for the time period from October 28, 2005 to May 20, 2009, and 2) Permanent and Total Disability ("PTD") for the time period from May 21, 2009 to the present. Based on the information available at the time, the City decided to decline these requests; and

WHEREAS, while preparing for trial, the City discovered that Mr. Helfen had moved more than 50 miles away from the City, making the defense of the PTD claim very difficult. At this time, Andrew Borah, the City's Workers' Compensation attorney, recommends that the City settle the indemnity aspect of the claim in order to resolve the PTD claim without going to trial or accepting Mr. Helfen as PTD; and

WHEREAS, the four years of past PTD exposure, with penalties and interest, is approximately \$200,000.00, and the present value of the City's future PTD exposure, using a 4% discount rate, is \$234,574.00, for a total potential exposure of \$434,574.00; and

WHEREAS, to date, \$491,830.07 has been paid out on this claim; and

WHEREAS, because the amount paid out on this claim exceeds the City's self - insurance retention level (\$400,000.00), the City's excess workers' compensation carrier (SunPoint Insurance Service Corporation/SunPoint Holdings) reimburses the City for all costs above \$400,000.00 and must also approve the settlement of this indemnity benefit; and

WHEREAS, Mr. Borah has negotiated a settlement of \$175,000.00, pending appropriate authorization from the City, and the excess carrier has approved such settlement; and

WHEREAS, authorization of this settlement would not close Mr. Helfen's workers' compensation claim but would close only the indemnity portion of it; and

WHEREAS, it is recommended that the City Commission authorize an amount not to exceed \$175,000.00 to settle the indemnity portion of this claim; and

WHEREAS, funding has been identified and will be available in the Fiscal Year 2018 budget in the City's Self Insurance Fund (Fund 58) and the City's excess workers' compensation insurance carrier will reimburse the City for the settlement amount.

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 true and correct and are incorporated in this Resolution.

Section 2: That the above-described settlement is approved, payable from the City's self-insurance fund.

Section 3: 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