

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE ATTACHED SETTLEMENT AGREEMENT IMPLEMENTING A SETTLEMENT WITH THE CITY OF HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY ("CRA"), ICON OFFICE BUILDING, LLC ("DEVELOPER"), AND BERMAN DEVELOPMENT GROUP, L.L.C. ("BDG").

WHEREAS, the City, CRA and BDG entered into a Developer Agreement and Parking Lease Agreement dated October 21, 2003; and

WHEREAS, the City, CRA and BDG entered into a First Amendment to Developer Agreement and Parking Lease Agreement dated June 21, 2004; and

WHEREAS, the City, CRA, BDG, and Berman Land Investments, L.L.C. ("BLI"), entered into a Second Amendment to Developer Agreement and Parking Lease Agreement dated July 25, 2005; and

WHEREAS, the City, CRA, BDG, and BLI entered into a Third Amendment to Developer Agreement and Parking Lease Agreement dated March 21, 2006; and

WHEREAS, the City, CRA, BDG, Radius Office Building, L.L.C. ("ROB"), f/k/a BLI, Hollywood Office Building, L.L.C., and Radius Retail Condominium, L.L.C. ("RRC"), entered into a Fourth Amendment to Developer Agreement and Parking Lease Agreement dated October 15, 2009 (the "Fourth Amendment"); and

WHEREAS, on or about November 23, 2015, Developer, BDG, RRC, and SunTrust Parking Lot, LLC, f/k/a Hollywood Office Building, LLC, filed a lawsuit in the Circuit Court of the 17th Judicial Circuit in Broward County, Florida (the "Court"), Case No. CACE-15-020788, against the City and the CRA, in response to which the City and CRA filed a counterclaim which was severed by the Court and by agreement of the parties on December 10, 2017 (hereinafter referred to as individually, or if severed, then collectively as the "Lawsuit"); and

WHEREAS, on or about July 1, 2016, the City and the CRA filed an Answer and Affirmative Defenses, Counterclaims, and Third-Party Complaint; and

WHEREAS, subject to the terms of the attached Settlement Agreement, the parties have agreed to resolve all matters between them relating to the Lawsuit and Counterclaims, including those that were or could have been raised; and

WHEREAS, among the terms and conditions of the Settlement Agreement are the following:

A) City/CRA shall pay to Developer the following:

- (i) \$500,000.00 upon execution of the Settlement Agreement;
- (ii) \$500,000.00 upon obtaining a No Further Action with Controls from the Broward County Environmental Protection and Growth Management Department ("EPGMD"); and
- (iii) \$500,000.00 upon completion of construction of the Icon Office Building.

B) Developer shall immediately apply for and pursue a No Further Action with Controls from EPGMD.

C) Subject to unavoidable delays, Developer shall achieve completion of construction of the Icon Office Building within 18 months of the commencement of construction.

D) City/CRA shall purchase environmental liability insurance for the Icon property, in the amount of \$5 million per occurrence, \$10 million in the aggregate, naming Developer as the insured party, for 20 years, with any deductible to be paid by City/CRA.

E) Developer shall construct the Icon Office Building consistent with the plans and specifications previously submitted to the City pursuant to permit #B13-101132.

F) The option granted to the City/CRA in the Fourth Amendment to construct a City-owned parking garage on the surface parking lot at the corner of 20th Avenue and Tyler Street shall be terminated.

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.

RESOLUTION APPROVING SETTLEMENT AGREEMENT SETTLING LITIGATION
REGARDING ICON OFFICE BUILDING.

Section 2: That it approves and authorizes the execution, by the appropriate City officials, of the attached Settlement Agreement, together with such non-material changes as may be subsequently approved by the City Manager and approved as to form and legal sufficiency by the City Attorney.

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