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THE CITY OF KEY WEST

1300 WHITE STREET
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Date: August 8, 2024

To: Mayor and City Commissioners for the City of Key West

From: Ron Ramsingh, City Attorney

Re: Potential Settlement of Harborside, LLC. Vs. City of Key West 2023-CA-550-K

Background:

Since 2020, the City of Key West and Harborside, LLC (The Marker Resort) have been in a dispute regarding the amount due for a parking agreement that was entered into in connection with the development agreement from 2012, when The Marker Resort was constructed. The parking agreement calls for an adjustment every 5 years of the off-site parking needs of The Marker Resort at the adjacent Caroline Street Parking Lot, pursuant to the land development regulations concerning parking. The adjustment is currently calculated on 2 criteria: the amount of spaces needed, and the amount paid per space. The number of spaces is calculated using a collection of data based on occupancy and the amount per space is calculated based on amount of revenue per parking space at the Caroline lot. The adjustment was to be made in 2017, and again in 2022. In 2020, city staff discovered a discrepancy between what was being paid and what the city asserts is supposed to be the proper amount. Meetings were conducted between the City Attorney, staff, and representative from Harborside, LLC. Harborside, LLC then filed suit against the city alleging a flawed method of calculating the amounts due for the parking agreement. A closed attorney/client session was held on May 9, 2024, where all of the salient points in the litigation were explained and discussed with the City Commission including strengths and weaknesses of the relevant positions of the parties. Thereafter, the city submitted a response to a settlement proposal. Harborside responded with the attached offer of \$400,000.00. Additionally, the number of parking

spaces contemplated in the parking agreement and the annual amount is proposed to be fixed at 26 spaces and \$15,000.00 per year.

Options:

1. To approve the proposed Settlement Agreement. The City will receive \$400,000.00 and the parking agreement will be amended to provide for a fixed amount of parking spaces for a fixed amount of \$15,000.00 annually.
2. To deny the proposed Settlement Agreement, the case will proceed in litigation.
3. To propose a counteroffer. Counsel for Harborside will be at the August 8th Commission Meeting to listen to any offers.

Recommendation:

Option 3.

A MORE DETAILED SETTLEMENT ANALYSIS AND RECCOMENDATION WILL BE PROVIDED TO THE CITY COMMISSON PURSUANT TO F.S. 119.071(1)(d) AS ATTORNEY TRIAL NOTES/IMPRESSIONS - NOT FOR PUBLIC DISCLOSURE.