

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE SETTLEMENT OF ALL LITIGATION WITH CONGREGATION 3401 PRAIRIE BAIS YESHAYA D'KERESTIR, INC. ("PLAINTIFF"); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SETTLEMENT AGREEMENT ACCOMPANYING THIS RESOLUTION AND ANY DOCUMENTS AND/OR AGREEMENTS RELATED THERETO; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO TAKE THE NECESSARY AND APPROPRIATE STEPS FOR THE IMPLEMENTATION THEREOF.

WHEREAS, the City of Miami Beach ("the City") and various related entities owning and occupying the residential property located at 3401 Prairie Avenue ("the Property") have engaged in expensive and time-consuming litigation arising out of the use of the property on several occasions dating back as far as the 1980s, without ever successfully establishing a workable framework for the peaceful coexistence of persons using the Property in a manner similar to the Plaintiff and the residents of the neighborhood in which the Property is located; and

WHEREAS, on April 19, 2022, Congregation 3401 and Rabbi Arie Wohl ("Rabbi Wohl") filed a federal court action in the United States District Court for the Southern District of Florida, styled *Congregation 3401 Prairie Bais Yeshaya D'Kerestir, Inc. and Rabbi Arie Wohl v. City of Miami Beach*, Case No. 22-cv-21213, against the City relating to City Code enforcement activity at Congregation 3401's property located at 3401 Prairie Avenue, Miami Beach, Florida 33140 (the "Property"). On January 20, 2023, the Court entered an Order granting Rabbi Wohl's dismissal from this action. On October 28, 2022, the City filed a Counterclaim seeking declaratory and injunctive relief (hereinafter collectively referred to as the "Federal Litigation"); and

WHEREAS, on August 26, 2022, Congregation 3401 filed a state court action in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, styled *Congregation 3401 Prairie Bais Yeshaya D'Kerestir, Inc. v. City of Miami Beach et al.*, Case No. 2022-016099-CA-01 (the "State Court Litigation") against the City and City employees and officials, including Daniel S. Gelber, Thomas R. Mooney, Steven H. Rothstein, Thomas Curitore, and Luis Negron (collectively, "Individual Defendants"); and

WHEREAS, the Plaintiff and the City ("the Parties") desire to avoid incurring further costs of litigation, and seek to resolve all matters in controversy, disputes, and causes of action between the parties in an amicable fashion, including, but not limited to, both the Federal Litigation and the State Court Litigation; and

WHEREAS, the Parties also desire to finally establish conditions relating to parking, noise, the condition of parking areas, and other matters, to facilitate the peaceful coexistence between the congregation and its neighbors, as well as a streamlined framework for resolving potential future disputes for a period of three years; and

WHEREAS, the parties have reached a full and final compromise and settlement of all matters, causes of action, claims and contentions between them ("the Settlement Agreement"), which achieves these goals; and

WHEREAS, the Settlement Agreement, which is attached hereto as Exhibit A, is contingent upon approval of the Mayor and City Commission; and

WHEREAS, the Settlement Agreement also calls for the payment of \$1,300,000.00 from the City to the Plaintiff in full and final settlement of all amounts claimed by the Plaintiff from the City; and

WHEREAS, the Mayor and City Commission desire to approve the Settlement Agreement and authorize the settlement payment to be made from the City's Risk Management Claims Fund.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA: that the Mayor and City Commission hereby approve the settlement of all litigation with Congregation 3401 Prairie Bais Yeshaya D'kerestir, Inc. ("Plaintiff"); authorize the Mayor and City Clerk to execute the Settlement Agreement accompanying this Resolution and any documents and/or agreements related thereto; and further authorize the City Manager and City Attorney to take the necessary and appropriate steps for the implementation thereof.

PASSED and ADOPTED this _____ day of June, 2023.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 6-21-23

