1	RESOLUTION NO
2	
3	A RESOLUTION TO APPROVE THE SETTLEMENT OF FEDERAL LITIGATION;
4	AND FOR OTHER PURPOSES
5	

WHEREAS, Federal litigation which alleged deprivation of constitutional rights and privileges to procedural due process, substantive due process, and equal protection under 42 U.S.C. § 1983 and Arkansas Code Annotated § 16-123-105, equitable estoppel, regulatory taking of private property without just compensation under the Fifth Amendment to the United States Constitution, relief under the Arkansas Private Property Protection Act, Arkansas Code Annotated § 18-15-1701 et seq., the Fair Housing Act, 42 U.S.C. § 3601 et seq., and seeking declaratory judgements and preliminary and permanent injunctions against the City of Little Rock (the "City"), Mayor Frank Scott, Jr., as Mayor of the City of Little Rock, City of Little Rock Department of Planning & Development (the "Planning Department"), Jaime Collins, P.E., as Director of the City of Little Rock Department of Planning & Development, Doris Wright, as City Director for the City of Little Rock, and the City of Little Rock Construction Board of Adjustment and Appeals (the "Construction Board"), was filed on November 15, 2021, and styled *The Peaks at Little Rock, Limited Partnership et al. v. City of Little Rock et al*, Case No. 4:21-cv-1093-BRW in the United States District Court for the Eastern District of Arkansas, Central Division (the "Peaks Litigation");

WHEREAS, the Peaks Litigation was instituted by The Peaks at Little Rock, Limited Partnership, The Peaks at Little Rock Phase II, Limited Partnership, RichSmith Holdings, LLC, and Ridge Construction, LLC (collectively, the "Plaintiffs"), regarding the suspension of certain building permits issued by the City for construction of improvements based on property described as follows:

Part of the SE ¼ of the NW ¼ of Section 15, T-1-N, R-13-W, Pulaski County, Little Rock, Arkansas, being more particularly described as follows:

Beginning at the NW corner of the SE ¼ of the NW ¼; thence, N86°52'46" east 639.80 feet to the NW corner of Tract "A", Kensington Place, Phase I; thence S02°33'37" west along the west line of said Tract "A" a distance of 600.49 feet to the NE corner of Lot 262, Kensington Place, Phase II; thence S71°24'48" west along the north line of said Lot 262 a distance of 118.36 feet to a point on the easterly right-of-way line of Dover Drive (sixty (60)-foot right-of-way); thence S53°25'00" west 63.28 feet to a point on the westerly right-of-way line of said Dover Drive; thence S78°39'05" west 284.57 feet; thence N89°51'02" west 175.69 feet to a point on the west line of said SE ¼ of the NW ¼; thence N00°28'00" east along said west line a distance of 695.88 feet to the Point of Beginning containing 9.691 acres, more or less (the "Property");

WHEREAS, the Property is being developed as a multi-family apartment complex with low income housing tax credits as shown on the plans and specifications previously presented to the City (the "Use"); and

WHEREAS, after careful consideration of various arguments and issues, it has been

determined that the settlement of litigation would be in the best interest of all parties.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS:

Section 1. The City Manager, and any other necessary City party, is authorized to enter into a settlement agreement in the Peaks Litigation pursuant to the following terms and conditions:

- (a) The City shall agree to pay the cumulative amount of One Hundred Fifty Thousand No/100 Dollars (\$150,000.00), pursuant to a Settlement and Release of Claims Agreement (the "Settlement Agreement") which has been made available and explained to the Mayor and Members of the Board of Directors;
- (b) The City shall agree and hereby agrees by this Resolution that Ordinance No. 21,012, An Ordinance to Repeal Ordinance No. 18,497 (June 5, 2001) Titled Arkansas Hospice Long-Form POD (Z-4175-G) and to Revoke a Planning Zoning District; and For Other Purposes, adopted by the City of Little Rock on March 17, 2015, was validly passed as recorded, and the Property has been zoned MF-18 since 2015 and continues to be zoned MF-18, allowing for all permitted uses as of the date of Ordinance No. 21,012 pursuant to the Zoning Ordinance for the City of Little Rock, Arkansas, without restrictions or conditions, including, but not limited to, any agerelated restrictions, and the City further agrees that the Use as a multi-family residential apartment development is specifically allowed on the Property without any restrictions other than as stated in this Resolution;
- (c) The City shall agree and hereby agrees that Building Permit Nos. 2020016052, 2020016054, 2020016055, 2020016056, 2020016058, 202121883, 202121884, 202121886, and 202121887, as granted and issued by the City of Little Rock Department of Planning and Development, were properly granted and issued, and allow for the construction of improvements provided in the applications for these permits and intended use of the Property.
- (d) The City shall agree and hereby agrees that certificates of occupancy for the development of the Property, as such has been identified as Phase I and Phase II, shall be promptly issued upon application and to issue the certificates pursuant to the City of Little Rock Code, assuming the improvements continue to be constructed in accordance with the City of Little Rock Code, and the Arkansas Fire Prevention Code, Volume II. The City shall issue such certificates of occupancy in good faith, and they shall not unduly withhold or delay their issuance, nor shall they deny the issuance of any certificate of occupancy or any other land-use entitlement necessary for the operation of the project being constructed on the Property based upon any issues relating to the Property's zoning;

- (e) The City shall agree and hereby agrees that the Plat and the Bill of Assurance as attached hereto as an Exhibit are hereby approved and shall cause, or authorizes the Planning Department to cause, the Plat and Bill of Assurance to be filed of record as required by the City of Little Rock Code and the laws of the State of Arkansas;
- (f) (i) The Settlement Agreement shall be executed only by parties who possess complete and full authority to do so; and

- (ii) Consideration paid by the City is adequate and sufficient, and acceptance of the monies are an express, irrevocable, acknowledgment of this fact; and
- (iii) The Settlement Agreement releases, acquits and forever discharges the City, Mayor Scott, the Planning Department, Jamie Collins, Director Wright, and the Construction Board in addition to their respective directors, officers, employees, agents, brokers, representatives, subsidiaries, divisions, members, affiliates, shareholders, legal representatives, predecessors, successors, insurers, attorneys, trustees, beneficiaries, assigns, privies, all affiliated and related companies, management companies, consulting management companies, governing bodies, municipal corporations, municipal subdivision, and all other persons and corporate entities with which the City, Mayor Scott, the Planning Department, Jamie Collins, Director Wright, and the Construction Board have been, are now, or may hereafter be affiliated, from all causes, causes of action, debts, deeds, suits, proceedings, agreements contracts, judgments, damages obligations, costs, fees (including, without limitation attorneys' fees), responsibilities, and liabilities, whether known or unknown, arising out of or in any way connected with the events and actions which are the subject of the Peaks Litigation, have been the subject of the Peaks Litigation;
- (iv) The City, Mayor Scott, the Planning Department, Jamie Collins, Director Wright, and the Construction Board, by virtue of the Settlement Agreement, and the Plaintiffs by the acceptance of the Settlement Agreement and the consideration set forth above, understands that nothing in the Settlement Agreement is an admission of liability, and that the Settlement Agreement is entered for the sole purpose of settlement and compromise; and
 - (v) The terms of the Settlement Agreement are contractual in nature.
- (c) All Terms of the Settlement Agreement, in substantially the format attached as Exhibit A to this resolution, shall be in full force and effect whether referenced in the body of this resolution or nor.
- Section 2. The funds for the City's portion of the Settlement shall be charged to . .
- Section 3. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall

not affect the remaining portions of the resolution which shall remain in full force and effect as if the portion		
so declared or adjudged invalid or unconstitutional were not originally a part of the resolution.		
Section 4. Repealer. All laws, ordinances, resolutions, or parts of the same, that are inconsistent with the		
provisions of this resolution, are hereby repealed to the extent of such inconsistency. PASSED: August 16, 2022		
ATTEST:	APPROVED:	
Susan Langley, City Clerk	Frank Scott, Jr., Mayor	
APPROVED AS TO LEGAL FORM:		
	_	
Thomas M. Carpenter, City Attorney		