

RESOLUTION NO. _____

A RESOLUTION APPROVING THE SETTLEMENT AGREEMENT IN THE AMOUNT OF \$850,000 TO BE PAID TO THE CITY OF ST. PETERSBURG FOR THE MAHAFFEY THEATER; APPROVING A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF \$850,000 FROM THE INCREASE IN THE UNAPPROPRIATED BALANCE OF THE GENERAL CAPITAL IMPROVEMENT FUND (3001), RESULTING FROM THESE ADDITIONAL REVENUES RECEIVED FROM THE SETTLEMENT AGREEMENT TO THE MAHAFFEY THEATER EXTERIOR WALL PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 30, 2015, the City of St. Petersburg filed suit against Aude Smith Architecture, Inc., AIA f/k/a Aude Shand & Williams ("ASI"), Robert Aude ("Aude"), Hennessy Construction Services Corporation ("Hennessy"), Keenan, Hopkins, Schmidt and Stowell Contractors, Inc. ("KHSS") and Wilson, Kehoe & Miller Corporation f/k/a Wilson Kehoe Corporation ("Wilson Kehoe") (collectively "Defendants") alleging design and construction defects in improvements made in 2005 and 2006 in the exterior wall cladding system at the Mahaffey Theater, in case styled *City of St. Petersburg v. Aude Smith Architecture, Inc. et al.*, Pinellas County Circuit Case No. 15-004928-CI in the Sixth Judicial Circuit in and for Pinellas County, Florida, and Hennessy filed a cross claim in the action against ASI, Aude, KHSS and Wilson Kehoe; and

WHEREAS, all parties have negotiated a settlement which is contingent upon final ratification by the City Council of the City of St. Petersburg (the "Settlement Agreement"); and

WHEREAS, the Settlement Agreement provides that the Defendants shall collectively pay a total sum of Eight Hundred Fifty Thousand dollars and no cents (\$850,000) to the City, in the following amounts:

1. ASI and Aude shall pay \$450,000
2. Hennessy shall pay \$200,000
3. KHSS shall pay \$100,000
4. Wilson Kehoe shall pay \$100,000; and

WHEREAS, the Settlement Agreement further provides for mutual release of all parties as to these matters, no admission of liability, each party to bear their own attorneys' fees and costs, and dismissal of the claims made in the lawsuit in their entirety with prejudice; and

WHEREAS, the City Attorney's Office recommends approval of the Settlement Agreement.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of St. Petersburg, Florida that the Settlement Agreement between the City of St. Petersburg and ASI, Aude, Hennessy, KHSS and Wilson Kehoe for \$850,000 to be paid to the City for the Mahaffey Theater is hereby approved.

BE IT FURTHER RESOLVED that there is hereby approved from the unappropriated balance of the General Capital Improvement Fund (3001), resulting from these additional revenues received from the Settlement Agreement, the following supplemental appropriation for FY2018:

General Capital Improvement Fund (3001)

Mahaffey Theater Exterior Wall Project (Engineering/CID Project No. 17201-019; Oracle Project No. 15605)	\$850,000
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This Resolution shall be effective immediately upon its adoption.

APPROVED AS TO FORM AND SUBSTANCE

Jane Wallace
City Attorney or designee

Approvals:

Budget:

LP II