

**RESOLUTION 21-145**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH NPC INTERNATIONAL, INC., RELATING TO THE CITY'S PURCHASE OF PROPERTY AT 16726 FRONT BEACH ROAD, IN THE TOTAL AMOUNT OF \$310,203.78.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and NPC International, Inc., relating to the purchase of a leasehold interest in land located at 16726 Front Beach Road, in the total amount of Three Hundred Ten Thousand, Two Hundred Three Dollars and Seventy Eight Cents (\$310,203.78), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 17<sup>th</sup> day of April, 2021.

**CITY OF PANAMA CITY BEACH**

By:   
Mark Sheldon, Mayor

**ATTEST:**

  
Lynne Fasone, City Clerk

## SETTLEMENT AGREEMENT

**THIS AGREEMENT** (the "Agreement") is made and executed as of \_\_\_\_\_, 2021, (the "Effective Date") by and among the City of Panama City Beach (the "City"), a municipal corporation duly organized and validly existing under the laws of the State of Florida, and NPC International, Inc. ("NPC").

WHEREAS, on September 27, 2018, the City acquired title to property located at 16726 Front Beach Road (the "Property"), in furtherance of the City's Front Beach Road Segment 3 ROW Improvement Project, subject to certain leasehold interests; and

WHEREAS, at that time of the City's purchase, NPC operated a Pizza Hut restaurant on the Property pursuant to a Lease Agreement dated February 2, 1994, as amended by that certain Lease Amendment dated September 7, 2012 and that certain Second Amendment to Lease Agreement dated March 31, 2020 (collectively, the "Lease") which was assigned to the City by the original landlord under the Lease when the City acquired the Property, though NPC has subsequently voluntarily moved their business to another location; and

WHEREAS, since the time of the City's purchase, the City has been negotiating with NPC to determine compensation, if any, due NPC in this circumstance; and

WHEREAS, upon the failure of those negotiations, the City Council authorized legal action on December 10, 2020 in order to resolve the issue of compensation; and

WHEREAS, since July 1, 2020, NPC has been undergoing a Chapter 11 bankruptcy action, which has recently concluded.

NOW THEREFORE, in consideration of the premises set forth above, the Parties agree as follows:

1. The City's payment of the compensation reflected herein is reasonable for all parties concerned.
2. The City shall pay NPC the total sum of Two Hundred Sixty Thousand Dollars (\$260,000) as full monetary compensation for its leasehold interest in the Property ("Settlement Amount"). Within fourteen days following the City Council's approval of this Agreement, the City shall make a check payable in this amount to "NPC International, Inc." and mail the check to 720 W 20<sup>th</sup> Street, Pittsburg, KS 66762.

3. NPC shall recover its necessary and reasonable attorney and expert fees and costs incurred in these negotiations as follows:
  - a. Walt Abbott: \$3,000
  - b. Burke, Blue, P.A.: \$47,203.78
4. Within fourteen days following the City Council's approval of this Agreement, the City shall make a check in the sum of Fifty Thousand, Two Hundred Three Dollars and Seventy-Eight Cents (\$50,203.78) payable to Burke, Blue, P.A. Trust Account and mail the check to Doug Smith, Esq., Burke, Blue, P.A., 221 McKenzie Avenue, Panama City, Florida 32401. Upon receipt of the \$50,203.78, Burke Blue shall distribute said sum as called for herein.
5. The Lease shall be deemed terminated effective as of the date NPC receives the Settlement Amount ("Termination Date"). City and NPC hereby agree that effective on the Termination Date each shall be deemed, without further act or deed, to have fully and completely released and forever discharged the other party and their successors and assigns of any and all liability for any and all claims, damages, obligations, duties and responsibilities pertaining to the Property or arising under the Lease.
6. If either City or NPC obtains a judgment against the other party in connection with the enforcement of this Agreement, reasonable attorney's fees incurred by the prevailing party, as fixed by the court, shall be included in such judgment and paid by the non-prevailing party.

In witness whereof, the City Council of the City of Panama City Beach, Florida, has caused this Agreement to be executed and delivered as of the date first above written.

**CITY OF PANAMA CITY BEACH,  
FLORIDA**

By:   
Drew Whitman, City Manager

ATTEST:

  
Lynne Fasone, City Clerk

APPROVED AS TO FORM:

  
Amy Myers, City Attorney

J. De Davis

In witness whereof, NPC International, Inc. has caused this Agreement to be executed and delivered as of the date first above written.

**NPC INTERNATIONAL, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Doug Smith, Attorney for NPC