

**MASTER BANKING SERVICES AGREEMENT BETWEEN
THE CITY OF DORAL
AND
WELLS FARGO BANK
FOR**

This Master Banking Services Agreement (this "**Agreement**") is entered into as of the 14th day of June, 2021 by and between Wells Fargo Bank, N.A. ("**Bank**"), a national banking association authorized to do business in the State of Florida and City of Doral ("**City**"), a municipal corporation of the State of Florida.

Recitals

WHEREAS, City issued RFP No. 2020-27 for the provision of banking and treasury management services on November 23, 2020 (the "**RFP**") to which the Bank submitted its response dated January 29, 2021 (the "**Bank's Response**");

WHEREAS, on the basis of the Bank's Response, City has determined to engage the Bank to provide certain banking and treasury management services (each, a "**Service**" and collectively, the "**Services**") all as provided in the RFP and the Bank's Response;

WHEREAS, Bank has agreed to provide the Services to City, and City has agreed to accept the Services, upon the terms and conditions set forth in the Bank's Response and set out in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which, each of Bank and City expressly acknowledge, each of Bank and City hereby agree as follows:

1. Entire Agreement. Bank shall provide, and City shall accept, the Services pursuant to the terms and conditions of the "**Service Documentation**" which includes the following documents which are attached and incorporated herein in their entirety:
 - 1.1 This Agreement;
 - 1.2 Bank's Response to City's Request for Proposal dated January 29, 2021 (the "**Bank's Response**") which includes Bank's response to the RFP and all exhibits and addendum which are incorporated by reference herein, including the Service Description for each Service (each, a "**Service Description**"), the commercial account agreement for the deposit accounts that City maintains at Bank (the "**Deposit Agreement**"), and the Pricing attached to the Bank's Response as Tab A (the "**Pricing Schedule**") collectively attached as **Exhibit A**;
 - 1.3 City's RFP dated November 23, 2020 (the "**RFP**") (attached as **Exhibit B**)

If there is a conflict among the documents that make up this Agreement, the documents will govern in the order set forth above. The Service Descriptions and Deposit Agreement in effect as of the date of this Agreement are attached to the Bank's Response. This Agreement constitutes the entire agreement between Bank and City and supersedes all prior representations, conditions, warranties, understandings, proposals or agreements regarding a Service and the transactions contemplated

hereunder. No course of dealing or waiver of any right on one occasion will constitute a modification of the above referenced documents or be a waiver of that right on a subsequent occasion.

2. Services; Additional Services. If City requests and Bank agrees to provide additional services after the date of this Agreement, which are governed by additional service descriptions, pricing or other documents, the terms and conditions thereof shall be deemed to be incorporated herein by reference without the need to either amend this Agreement or to add such service descriptions, pricing or other documents as attachments to this Agreement.

3. Changes to Services or Service Documentation. Except as otherwise set forth herein, Bank may change (or add to) the terms in the Service Documentation at any time. If an enhancement to a Service or other change requires a change to a Service Description, Bank will post an updated Service Description on the CEO portal, which shall be deemed to supersede such applicable Service Documentation attached to the Bank's Response. When required by Applicable Law, Bank will notify City of the change. If City continues to use a Service after the change takes effect, City will be bound by such changes. As used in this Agreement, the term "Applicable Law" means all applicable laws (including common or customary laws), statutes, constitutions, policies, decrees, judgments, treaties, regulations, directives, by-laws, rulings, orders or operating circulars governing our activities and/or any transaction effected under this Agreement, including, but not limited to, the funds transfer system and clearing and settlement house rules.

4. Term, Termination, Liability.

4.1 This Agreement shall have an initial term of three (3) years beginning on July 1, 2021, and ending on June 30th, 2024, with the parties having the option to renew for two (2) additional one (1) year terms. Bank and City must mutually agree to any renewal, which shall be on terms and conditions mutually agreed upon by Bank and City in writing.

4.2 Unless terminated sooner in accordance with the Service Documentation, this Agreement and all Services will continue in effect until terminated by either party upon thirty (30) days prior written notice to the other party (unless a Service is terminated sooner in accordance with the Service Documentation). Either party may terminate any Service (a) following notice to the other party of a breach by such other party of any provision of the Service Documentation and such other party's failure to cure the breach within fifteen (15) days of the date of such notice, (b) upon notice to the other party if the other party is subject to a petition under the U. S. Bankruptcy Code, and/or (c) upon Bank's failure to comply with Section 8.6 herein. City is a bona fide governmental entity of the State of Florida, and if City does not appropriate sufficient funds for any of City's fiscal years subsequent to the one in which this Agreement is executed and entered into, then this Agreement will terminate effective upon expiration of the fiscal year in which sufficient funds to continue satisfaction of City's obligation under this Agreement were last appropriated by City and City shall not in this sole event be obligated to make any further purchases beyond said fiscal year. The termination of a Service or this Agreement will not affect City's or Bank's rights with respect to transactions occurring before termination. Neither party will be liable to the other party for any losses or damages such other party may incur as a result of any termination of any Service or this Agreement in accordance with the terms of the Service Documentation.

5. Service Fees.

5.1 City shall pay Bank the fees for the Services as set forth in Tab A of Exhibit A. Except to the extent related to additional services referenced in Section 2 above, fees for the Services will remain fixed for the initial term of the Agreement. Except as otherwise agreed to between City and Bank, Bank may debit City's account(s) with Bank for any fees not covered by earnings credits and any taxes that are due, or it may send an invoice to City for such amounts, which City will promptly pay. Bank shall waive the first four (4) months of analysis fees following the execution of this Master Banking Services Agreement ("MBSA"), as well as waive the implementation fee for Payment Manager® and Wells Fargo Electronic Deposit (WFED) if implemented within the first 12 months of the new MBSA.

5.2 The City shall have the option of using either a non-interest bearing account (NIB) or a Government Advantage Interest Checking account (GAIC), and can switch between them as the interest rate environment changes. The NIB account shall receive an initial managed earnings credit rate (ECR) of 0.25% (25 basis points). The GAIC account shall receive an initial managed ECR of 0.25%, and an initial managed interest rate of 0.17% (17 basis points) on excess balances not used to offset fees. The Bank sets the ECR internally each month after evaluating a combination of factors, including the 91-Day Treasury Bill rate, the Fed Funds rate, sweep rates, and other market indicators.

6. Representations and Warranties.

6.1 Mutual Representations and Warranties. Each of the parties hereto represents and warrants to the other party that: (i) such party is duly organized and in good standing in all appropriate jurisdictions; (ii) each party is fully authorized to execute and perform under this Agreement and the execution of and performance under this Agreement does not violate any law, regulation, contract or organizational document by which such party is bound; and (iii) the individual(s) executing this Agreement on behalf of such party has full corporate and/or organizational authority to do so;

6.2 City warrants it will not use any Service in a manner which violates any federal or state law including without limitation any sanction or control administered by the Office of Foreign Assets Control or Bureau of Export Administration.

6.3 If City employs an agent in connection with its use of any Service, City represents and warrants to Bank that (a) City's governing body has duly authorized the agent and (b) City will exercise appropriate controls to ensure each agent so authorized does not exceed the authority so granted to it. Any communication to Bank regarding City's use of a Service from City's agent will be deemed to be a communication from City, and City authorizes Bank to communicate with City's agent regarding any such communication or Service.

6.4 Neither Bank nor any software vendor makes any express or implied representations or warranties with respect to the Services or any software used in connection with the Services including without limitation any warranty as to the merchantability or fitness for a particular purpose, other than those expressly set forth in the Service Documentation.

7. Liability/Indemnification.

7.1 Bank will perform each Service in accordance with reasonable commercial standards applicable to Bank's business; laws, regulations and operating circulars governing the activities of Bank; funds transfer system(s) and clearinghouse rules applicable to activities of Bank; and the Service Documentation.

7.2 Bank is under no obligation to honor, in whole or in part, any entry, file, batch release, transfer instruction, payment order, transaction or instruction that (a) exceeds the available balance in City's account, unless otherwise provided in the Service Documentation; (b) is not in accordance with the Service Documentation or Bank's applicable policies, procedures or practices as made available to City; c) Bank has reason to believe may not have been duly authorized, should not be honored for its or City's protection, or involves funds subject to a hold, dispute, restriction or legal process; or d) would possibly result in Bank violating any applicable rule or regulation of any federal or state regulatory authority including without limitation any Federal Reserve guidelines such as the limitations on Bank's intra-day net funds position.

7.3 All uses of Services through City's ID codes, passwords, token cards, PINs, or passcodes (each, a "Code") will be deemed to be authorized by and binding on City. City's failure to protect Codes may allow an unauthorized party to (a) use the Services, (b) access City's electronic communications and financial data, and (c) send or receive information and communications to Bank. City assumes the entire risk of unauthorized use of Codes and unencrypted electronic transmissions.

7.4 City will promptly furnish written proof of loss to Bank and notify Bank if it becomes aware of any third party claim related to a Service. City will cooperate fully (and at its own expense) with Bank in recovering a loss. If City is reimbursed by or on behalf of Bank, Bank or its designee will be subrogated to all rights of City.

7.5 Bank will have no liability for failure to perform or delay in performing a Service if the failure or delay is due to circumstances beyond Bank's reasonable control. If Bank determines that any funds transfer or communications network, Internet service provider, or other system(s) it has selected to provide a Service is unavailable, inaccessible or otherwise unsuitable for use by Bank or City, Bank may, upon notice to City, suspend or discontinue the affected Service.

7.6 Bank will only be liable to City for City's direct monetary losses due to Bank's negligence or intentional misconduct resulting from or relating to this Agreement, except to the extent caused by the negligent acts, omissions, or willful misconduct of the City, its officers, employees, agents, or employees. Except as expressly provided otherwise in the Service Documentation, neither party to this Agreement will be liable to the other party for any special, consequential, incidental (including without limitation court costs and attorneys' fees), indirect, or punitive losses or damages, whether any claim is based on contract or tort, or whether the likelihood of such losses or damages was known to the other party and regardless of the form of the claim or action.

7.7 During the term of this Agreement, Bank will indemnify, defend and hold harmless City and its officers, directors, employees, agents and assigns (the "Indemnified Parties") from and against all claims, losses, demands, liability, judgments, awards, interest, attorney's fees and costs (collectively, "Losses") arising out of, or resulting from the performance of the services provided hereunder which are, in each case, directly caused in whole or in part by the negligent or intentional acts or omissions of Bank or any of its officers, directors, employees, agents, or subcontractors, except to the extent such Losses are caused by the negligence or intentional misconduct of any Indemnified Party.

7.8 During the term of this Agreement, Bank will indemnify, defend and hold harmless the Indemnified Parties against any allegation that materials or services provided by the Bank under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual, property or proprietary right of any third party. Notwithstanding the foregoing, Bank shall have no liability for such infringements or violations based on (i) any unauthorized alteration

or modification of the materials or services by any party other than Bank, (ii) use of the materials or services in any manner other than as permitted under this Agreement, (iii) use of the materials or services in combination with any equipment or software not authorized by Bank or reasonably intended for use with the materials or services, or (iv) Bank's compliance with specific information or instructions provided to Bank by City.

7.9 If any Indemnified Party determines to seek indemnification from Bank under 7.7 or 7.8 above, the Indemnified Party shall provide written notice of the suit, claim or action to Bank as soon as practicable but in any event not later than ten (10) business days following the Indemnified Party's receipt of notice of such suit, claim or action. Said written notice shall specify in detail: (i) the facts constituting the basis for the allegations and (ii) if known, the aggregate amount of Losses for which a claim is being made, or to the extent that such Losses are not known or have not been incurred at the time such claim is made, an estimate, to be prepared in good faith and accompanied by supporting documentation, of the aggregate potential amount of such Losses.

7.10 In the case of any suit, claim or action for which indemnification is sought by Indemnified Party under 7.7 or 7.8 above, the Indemnified Party shall permit Bank to assume and control the defense or settlement of such suit, claim or action at Bank's expense. The Indemnified Parties and Bank shall reasonably cooperate in the investigation, pre-trial activities, trial, compromise, settlement, discharge and/or defense of any suit, claim or action for which indemnification is sought under 7.7 or 7.8 above, and the records and employees of the Indemnified Parties shall be made reasonably available to Bank with respect to such defense.

8. Miscellaneous.

8.1 The Service Documentation will be governed by substantive federal laws, regulations and rules and, to the extent such laws, regulations and rules are not applicable, those of the State of Florida, without regard to conflicts of laws principles. Any portion of the Service Documentation which is inconsistent with applicable laws, regulations or rules will be deemed modified and applied in a manner consistent therewith, and Bank will incur no liability to City as a result of the inconsistency or modification and application. If any portion of the Service Documentation is deemed unenforceable, it will not affect the enforceability of the remaining Service Documentation. Venue for any action arising out of or relating to this Agreement shall lie in state or federal courts in or for Miami-Dade County, Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

8.2 Either party may provide notice to the other party by mail, personal delivery, or electronic transmission. Bank will use the most recent address for City in Bank's records, and any notice from Bank will be effective when sent. City will use the address where City's relationship manager or other manager is located and address any notice to the attention of such manager. Any notice from City will be effective when actually received by Bank. Bank will be entitled to rely on any notice from City that it believes in good faith was authorized by an authorized representative of City and, except as expressly stated in the Service Documentation, will have no obligation to verify the signature (including an electronic signature). Each party will have a reasonable time after receipt of any notice to act on it.

8.3 The Services rely upon a robust network of Bank assets, employees and third-party resources located in the United States and around the world to provide service to City. Bank reserves the right to perform services using this model and to subcontract freely and to add and delete service providers at Bank's discretion. Bank will remain fully responsible for performance of all obligations

under this Agreement, including those performed by a subcontractor or other service provider engaged by Bank.

8.4 This Agreement may be executed in any number of counterparts, which when taken together shall constitute one complete original of this Agreement. This Agreement may be executed and delivered via facsimile or any electronic means, such as email.

8.5 City and Bank agree that this Agreement and the Service Documentation set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein and therein.

8.6 Upon full payment of all monies owed to the Bank, all reports, statements, or records (the "Records") that result from the Bank providing Services to the City under this Agreement shall be the property of the City. For the avoidance of doubt, Wells Fargo will retain all ownership and related rights in its intellectual property (including, but not limited to, systems, software and hardware, regardless of location or date of development), used or developed in connection with the Services provided to the City under this Agreement, now and hereafter. The City agrees, to the fullest extent permitted by law, to indemnify and hold Bank harmless from any claim, liability or cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of any reuse or modification of the Records by the City or any person or entity that obtains the Records from or through the City. The City Manager or his designee shall, during the term of this Agreement and for a period of seven (7) years from the date Records are created, have access to and the right to examine and audit any Records of the Bank involving transactions related to this Agreement. All audits requiring access to Bank's premises shall be subject to Bank's reasonable security procedures. All such audits will minimize, to the greatest extent possible, any disruption to Bank's on-going business operations. In no event will the foregoing be interpreted or construed to constitute Bank's consent, commitment or agreement to provide the City or any of its regulators or any governmental entity with access or audit rights with respect to (1) Bank's secure facilities, systems, networks or equipment; or (2) any technology documentation, test or scan results, or any other artifact relating to Bank's security practices.

8.7 To the extent that Bank meets the definition of "contractor" under section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Bank must comply with public records laws, including the following provisions of section 119.0701 (as revised from time to time), requiring Bank to:

- A. Keep and maintain public records required by City to perform the service.
- B. Upon request from City's custodian of public records, provide City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that confidential information or records that are exempt from public records disclosure are not disclosed except as authorized by law for the duration of this Agreement, renewals, and following completion of the contract if Bank does not transfer the records to City.
- D. Upon completion of this Agreement, transfer, at no cost, to City all public records in possession of Bank or keep and maintain public records required by City to perform the service.

- 1) If Bank transfers all public records to City upon completion of the contract, Bank must destroy any duplicate confidential information or records that are exempt from public records disclosure.
- 2) If Bank keeps and maintains public records upon completion of this Agreement, Bank must meet all applicable requirements for retaining public records.
- 3) All records stored electronically must be provided to City, upon request from City's custodian of public records, in a format that is compatible with the information technology systems of City.

8.8 Bank certifies that it has not divulged, discussed or compared his/her/its quote with other individuals and/or entities that provided quotes to the City for the Services and has not colluded with any other individual or entity whatsoever.

8.9 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

8.10 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

8.11 Bank warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Provider, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

8.12 It is understood that performance of any act (other than payment of money) by the City or Bank hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City forces as may be necessary to meet City needs, and, in such event, the City shall withhold payment due Contractor for such period of time, if any, to the extent services are performed by parties other than Bank or its agents. If the condition of force majeure exceeds a period of fourteen (14) days, the City may, at its option and discretion, cancel or renegotiate the Agreement.

8.13 Either party may assign this Agreement with the other party's consent, which consent will not be unreasonably withheld or delayed; however, that Bank may assign this Agreement without City's consent in connection with a merger, acquisition, or corporate restructuring involving all or substantially all of the assets of Bank; provided that any assignee shall be in compliance with the terms of this Agreement as of the date of such assignment.

8.14 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

8.15 Severability. In the event any of the provisions of this Agreement are determined by a court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful

provision shall be excised from this Agreement, and the remainder of this Agreement shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision shall materially and adversely affect the rights of a party, such party may elect, at its option, to terminate this Agreement in its entirety.

8.16 No Partnership or Joint Venture. It is understood and agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between City and Bank or any other party, or cause either party to be responsible in any way for the debts and obligations of the other party.

8.17 No Third-Party Beneficiaries. There are no third-party beneficiaries created or entitled by this Agreement, and only the specific parties hereto shall have any rights or standing to enforce this Agreement or any provision thereof.

Each of the parties hereto agrees to be bound by the terms and conditions of this Agreement, as of the above written date.

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

Attest:

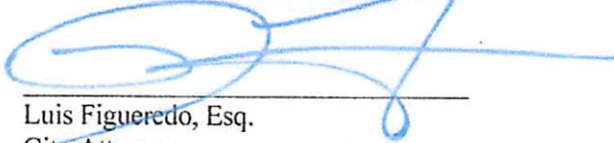
CITY OF DORAL

For: 
Connie Diaz, City Clerk

By: 
Hernan Organvitez, Interim City Manager

Date: 6/14/21

Approved As To Form and Legal Sufficiency for the Use
And Reliance of the City of Doral Only:


Luis Figueredo, Esq.
City Attorney

Wells Fargo Bank N.A.

By: 

Name: Vincent Mattio

Title: Senior Vice President

Date: 6/21/2021

EXHIBIT A

Bank's Response to City's Request for Proposal dated January 29, 2021

EXHIBIT B

City's RFP No. 2020-27 dated November 23, 2020

RESOLUTION No. 21-86

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE RANKING OF RESPONDENTS TO REQUEST FOR PROPOSALS #2020-27 "BANKING SERVICES"; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH WELLS FARGO BANK AS THE TOP RANKED FIRM, SUBJECT TO APPROVAL AS TO FORM AND LEGAL SUFFICIENCY BY THE CITY ATTORNEY, FOR THE PROVISION OF INVESTMENT MANAGEMENT SERVICES; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE NEXT HIGHEST RANKED FIRM SUCCESSIVELY IF AN AGREEMENT CAN NOT BE NEGOTIATED; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on November 19, 2020 the City of Doral (the "City") issued a Request for Proposal #2020- 27 for "Banking Services" (the "RFP"), and the City of Doral received four (4) submittals by the January 29, 2021 deadline, with two (2) firms meeting the required criteria; and

WHEREAS, a public meeting was held on March 2, 2021 where the Evaluation Committee upon review of the submittals received, two (2) firms were evaluated, scored, and ranked based on a 300-point system; and

WHEREAS, staff recommends that the City Council accept the ranking of the banks as specified herein and authorize the City Manager to negotiate and enter into an agreement with Wells Fargo Bank the provision of banking services, or, if negotiations fail with the top ranked firm, to negotiate an agreement with the next highest ranked firm successively until an agreement is reached, for a three (3) year contract period, with an option in favor of the City to renew for two (2) additional, one (1) year periods, payable from the General Government's Contractual Services line item; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval of Rankings. The City Council hereby approves the rankings of the two (2) firms as provided by the Evaluation Committee as follows:

(1) Wells Fargo Bank

(2) Synovus Bank

The foregoing rankings do not vest any contractual rights on any of the foregoing parties.

Section 3. Authorization to Procure Services. The City Manager is hereby authorized to negotiate with Wells Fargo Bank, as the top ranked firm, and enter into an agreement, subject to approval by the City Attorney, as to form and legal sufficiency, for the provision of Banking Services, for an initial three (3) year period, with an option in favor of the City to renew for two (2) additional one, (1) year periods, payable from the General Government's contractual services line item. If negotiations fail with Wells Fargo Bank, the City Manager is authorized to negotiate an agreement with Synovus Bank.

Section 4. Implementation. The City Manager and the City Attorney are hereby authorized to take such action as may be necessary to implement the provisions of this Resolution.

Section 5. Effective Date. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Mariaca who moved its adoption. The motion was seconded by Councilmember Puig-Corve and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Yes
Councilwoman Digna Cabral	Yes
Councilman Claudia Mariaca	Yes
Councilwoman Oscar Puig-Corve	Yes

PASSED AND ADOPTED this 14 day of April, 2021.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY