

RESOLUTION No. 22-229

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE EMPLOYMENT AGREEMENT WITH BARBARA C. HERNANDEZ AS CITY MANAGER; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, following a vacancy, on December 21, 2022, after careful consideration and pursuant to Section 3.01 of the City Charter, the Mayor nominated, and the City Council appointed, Mrs. Hernandez to serve as the City Manager of the City at a duly noticed Council Meeting on December 21, 2022; and

WHEREAS, the City is willing to offer the position of City Manager, and Mrs. Hernandez is willing to accept the appointment to the position of City Manager, pursuant to the terms and condition of this Resolution and the Employment Agreement by and between the City and Mrs. Hernandez, attached hereto as Exhibit "A" and incorporated herein and made a part hereof by this reference; and

WHEREAS, the Mayor and City Council find that approving the Employment Agreement with Mrs. Hernandez in order to formally hire her as the City Manager is in the best interest of the community.

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

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

Section 2. Approval. The Employment Agreement by and between the City and Barbara C. Hernandez, attached hereto as Exhibit "A", is approved and Mrs. Hernandez is formally hired as City Manager for the City.

Section 3. Authorization. The Mayor is hereby authorized to execute the Employment Agreement with Mrs. Hernandez on behalf of the City, binding the City to its terms.

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

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Vice Mayor Pineyro who moved its adoption.

The motion was seconded by Councilmember Porras and upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Rafael Pineyro	Yes
Councilwoman Digna Cabral	Not Present At Time of The Vote
Councilwoman Maureen Porras	Yes
Councilman Oscar Puig-Corve	Absent/Excused

PASSED AND ADOPTED this 21 day of December, 2022.



CHRISTI FRAGA, 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

EXHIBIT “A”



CITY MANAGER EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into as of the 2 day of January, 2023 (the "Effective Date") by and between the City of Doral, Florida, a Florida municipal corporation located in Miami-Dade County (the "City"), and Barbara C. Hernandez, an individual residing in Miami Dade County ("the "City Manager"). The City and the City Manager may be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Pursuant to Section 3.01 of the City of Doral Charter, the Mayor nominates the City Manager which is confirmed by the City Council; and

WHEREAS, as a result of resignation, a vacancy existed in the office of City Manager; and

WHEREAS, Mayor Christi Fraga nominated, and the Council approved the appointment of, Mrs. Hernandez as City Manager on December 26, 2022; and

WHEREAS, it is the desire of the Mayor and City Council-members to enter into an employment agreement to provide certain benefits to, and to establish certain conditions of the employment for, Mrs. Hernandez; and

WHEREAS, it is the desire of the Mayor and City Council-members to provide inducement for Mrs. Hernandez to remain in such employment, 1) to make possible full work productivity by assuring the City Manager's morale and peace of mind with respect to future security; 2) to provide means for terminating the City Manager services as such time that is deemed expedient to so by a decision of either or both parties; and 3) to act as a guide to insure accountability and establish standards of performance; and

WHEREAS, the Mrs. Hernandez desires to enter into an employment agreement with the City of Doral;

AGREEMENT

NOW THEREFORE, in consideration of foregoing recitals, which are incorporated herein and made a part hereof by this reference, the mutual promises set forth in this Agreement, and other good and valuable consideration, the

sufficiency of which the Parties hereby acknowledge, the City and Mrs. Hernandez agree as follows:

Section 1. Duties

- A. The City Council hereby employs Mrs. Hernandez, a resident of Miami Dade County, as City Manager of and for the City of Doral, Florida, to perform the functions and duties as specified in the City Charter and by City Ordinances, and to perform other legally permissible and proper duties and functions as the City Council periodically assigns.
- B. Mrs. Hernandez shall discharge the duties of City Manager in accordance with the terms, conditions, and provisions contained in this Agreement, the City Charter, and any applicable employment policies, as may be established and amended from time to time, and in a professional and respectable fashion).
- C. During the term of this Agreement, Mrs. Hernandez will not have set work hours or a set work schedule. Mrs. Hernandez acknowledges that the duties of City Manager will be variable and may require work after the City's regular business hours, and on nights, weekends and holidays. Mrs. Hernandez agrees to devote her best efforts and the time and energy necessary to perform fully the duties of City Manager as required under this Agreement. Mrs. Hernandez further agrees to be exclusively employed by the City during the term of this Agreement, however, Mrs. Hernandez reserves the right to provide parks and recreation consulting services outside the City, provided Mrs. Hernandez advises the City of such limited engagement. The City agrees that Mrs. Hernandez may participate in such endeavors during the term of this Agreement on her personal time, provided same does not interfere with her duties as City Manager.
- D. If Mrs. Hernandez is out of the office on vacation or attending training and unable to perform her duties, Mrs. Hernandez shall designate her deputy or another employee of the City to serve as an acting City Manager for such length of time as may be needed for Mrs. Hernandez to resume her duties. In the event Mrs. Hernandez has a leave of absence, Mrs. Hernandez shall nominate her deputy or another employee of the City to serve as Acting City Manager. The Mayor and City Council reserve the right to nominate and approve an Acting City Manager different than that individual so designated by Mrs. Hernandez during Mrs. Hernandez's extended leave of absence.

Section 2. Term of Agreement

- A. This Agreement shall commence on the January 2, 2023 and shall remain in effect until terminated as provided herein. Mrs. Hernandez acknowledges that employment with the City is on an at-will basis and that Mrs. Hernandez shall serve at the pleasure of the City Council. Nothing in this Agreement shall

prevent, limit, and/or otherwise interfere with the right of the City Council to terminate Mrs. Hernandez at any time, subject to Section 3.03 of the City Charter.

- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Mrs. Hernandez to resign at any time from the position of City Manager, subject only to the provisions set forth in Section 5 of this Agreement.

Section 3. Salary

- A. The City agrees to pay Mrs. Hernandez as compensation for her services under this Agreement an initial annual salary of two hundred thirty-eight thousand four hundred forty-two dollars and no cents (\$238,442.00), payable in biweekly installments at the same time as when other City employees are paid. For each City fiscal year, hereafter, commencing with October 1, 2022, City Manager shall receive the standard annual salary increase percentage amount which is granted to all other general employees of the City. This salary is subject to all legally required deductions.
- B. Mrs. Hernandez shall be entitled to an automatic increase in salary based upon the cost of living approved for City Employees per year unless specifically reduced or increased by majority of the vote of the Council. Mrs. Hernandez shall be entitled to an automatic increase in salary of five percent (5%) per year, unless specifically reduced or increased by majority of the vote of the Council. The City, at its option, may annually review said base salary and/or other benefits of Mrs. Hernandez and increase/decrease same in such amounts and to such an extent as the City Council may determine desirable based on Mrs. Hernandez's performance, in the City Council's sole and absolute discretion. Such evaluation shall be in such form as the Council deems appropriate and may be made each year, prior to October 1st, in accordance with procedures established by City Council for the duration of this Agreement. Nothing herein shall require the City to increase the compensation and/or other benefits of Mrs. Hernandez. Failure to conduct an annual evaluation shall not constitute a material breach of this Agreement.

Section 4. Termination by the City

- A. In the event the City Council wishes to terminate Mrs. Hernandez, it shall do so in accordance with Section 3.03 of the Charter.
- B. Mrs. Hernandez is employed at will and serves at the pleasure of the Mayor and City Council. This agreement and her employment may be terminated by the City Council at any time and for any reason or for no reason, subject only to the express Termination provisions of this Agreement.

- C. Should the City Council terminate the services of Mrs. Hernandez without cause, or a contract is not renewed by the Mayor and City Council members and during such time as the City Manager is willing to perform duties under this agreement, or the City Manager is asked or forced to resign, then and in that event, the City agrees to pay the City Manager severance in an amount equal to twenty (20) weeks of severance, in accordance with Florida Statute § 215.425. within ten (10) business days following the termination, inclusive of accrued retirement contribution, any accrued and unpaid salary and PTO time earned.
- D. Should the City terminate this Agreement with Cause, in the event that Mrs. Hernandez has committed an illegal act or for misconduct as referenced in Sec. 215.425(4)(a)(2), F.S. the City shall pay Mrs. Hernandez any payments due for work performed through the date of termination and other payments due, if any, upon terms and conditions applicable to City employees and shall have no further liability to Mrs. Hernandez whatsoever, including no obligation to pay the Severance Payments as defined in Section 4-C.

Section 5. Termination by the City Manager

Mrs. Hernandez may terminate this Agreement at any time upon no less than ninety (90) days advance written notice to the Mayor and City Council. At that time, the City shall obligate to pay Mrs. Hernandez any accrued and unpaid salary and PTO time earned. If Mrs. Hernandez voluntarily resigns with less than ninety (90) day notice, the City shall pay to Mrs. Hernandez all accrued compensation due to her up to her final day of employment within ten (10) days of the resignation date. The City shall have no further financial obligation to Mrs. Hernandez pursuant to this Agreement, including, but not limited to, obligation to pay the severance required upon City initiated termination. The City, through the City Council, reserves the right to dismiss and/or terminate Mrs. Hernandez earlier than the resignation date provided in the notice and, in that case, shall pay Mrs. Hernandez any accrued and unpaid salary and PTO time earned. Notwithstanding the foregoing, if Mrs. Hernandez voluntarily resigns with less than ninety (90) days' notice, the City Council reserves the right to grant and pay to Mrs. Hernandez the severance pursuant Section 4(C) of the Agreement, as well as any accrued and unpaid PTO.

Section 6. Automobile Allowance and Communications Equipment

A. The City will provide Mrs. Hernandez, at her option, with either (i) a \$700.00 per month vehicle allowance for a vehicle that may be used personal and work purposes, or (ii) an automobile for her use during the term of this Agreement. If Mrs. Hernandez elects to receive an automobile, the City will pay the cost of insurance, maintenance, a Sunpass device, and repairs for the assigned automobile, and will provide a gasoline allotment at the Public Works Department. Mrs. Hernandez agrees to abide by the applicable rules of the road when driving. The City reserves the right to take away Mrs. Hernandez automobile, on any grounds, including, but not limited to, financial

reason and/or Mrs. Hernandez's driving records. If Mrs. Hernandez elected to receive the monthly allowance, the City agrees to reimburse Mrs. Hernandez for the mileage for out of Miami-Dade and Broward Counties travel associated with business of the City at the same rate as other employees are reimbursed.

B. The City shall provide Mrs. Hernandez a cell phone allowance of \$150.00 per month.

Section 7. Dues and Subscriptions

The City agrees to pay the City Manager's professional dues for membership in the Florida City and County Managers Association (FCCMA), the International City/County Manager's Association (ICMA), the National Recreation and Parks Association (NRPA), and the Florida Recreation and Parks Association (FRPA). The City shall pay other dues and subscriptions on behalf of City Manager as are approved in the City's annual budget (on a line item basis) or as authorized separately by the Mayor and City Council.

Section 8. Professional Development

The City agrees to pay for the City Manager's travel and attendance at two (2) conferences which shall be the following: (i) Florida Association of City/County Managers held in June in Orlando; (ii) International City /County Managers Association held in October, Nationally. The City shall pay for Mrs. Hernandez's attendance at other seminars, conferences and committee meetings as are approved in the City's annual budget (on a line-item basis) or as authorized separately by the City Council.

Section 9. Community Involvement

The City acknowledges that Mrs. Hernandez currently participates in community civic, and charitable organizations. The City agrees that Mrs. Hernandez may continue participation in such endeavors during the term of this Agreement, provided that such participation shall be conducted at Mrs. Hernandez's personal expense and that such work shall not interfere with Mrs. Hernandez's duties as City Manager and shall not in any way reflect unfavorably on the City. The City acknowledges that Mrs. Hernandez's participation in these endeavors include, but is not limited to, participation (in person, or via the telephone or internet) in meetings, conferences, seminars, or other activities sponsored by the organizations. If the City Manager will be away from work for one or more full days because of her participation in any community or other civic organization, the City Manager is required to provide advance notice to and receive prior approval from the Mayor of the City.

Section 10. Personal Time Off

Mrs. Hernandez shall accrue Personal Time Off (PTO) in accordance with the Benefits for Administrative Employees, Rule 11.3, Employees Policies and Procedures Manual, but in no event less than at a rate of twenty-six (26) days a year. The use of PTO shall be approved in writing by the Mayor, or in her absence, the Vice Mayor, with notice to the rest of the City Council at the time of approval. Request for extended PTO shall be submitted for approval no less than fifteen (15) days prior to the requested, anticipated time off. In addition to the above, Mrs. Hernandez will be granted an additional 75 hours of PTO time beginning each fiscal year.

Section 11. Holidays

- A. Mrs. Hernandez is entitled to the same twelve (12) paid holidays and two (2) paid personal days as provided to all Administrative Employees of the City. If Mrs. Hernandez works on a holiday or does not use a personal day during the year, Mrs. Hernandez can bank such days for future use.
- B. At the termination of this Agreement, Mrs. Hernandez will be paid combined PTO and holiday/personal time accrued hereunder in accordance with the Benefits for Administrative Employees, Rule 11.5, Employees Policies and Procedures Manual, but in no event shall such maximum be more than 1,000 hours of PTO and holiday time.

Section 12. Health, Dental, Vison, Life, Disability and Professional Insurance

- A. Mrs. Hernandez shall be entitled, at her option, to (i) receive fully paid health, dental and vision insurance coverage for herself and her family (as provided under, and subject to the terms and conditions of, the City's applicable group health plan), or (ii) in lieu thereof, receive a monthly allowance in the amount equal to the monthly insurance premium for such family coverage applicable at such time, but in no event shall such allowance exceed One Thousand Dollars and No Cents (\$1,000.00) monthly. Mrs. Hernandez at the time of her departure and official retirement from the City, shall at her option be able to continue to be covered by health, dental and vison coverage purchased at the rate offered to City employees as provided for in Section 112.080 1 FS. at her expense and not the **COBRA** rate.
- B. The City shall provide Mrs. Hernandez with life, accidental death and dismemberment, and short-term and long-term disability insurance coverage (as provided under, and subject to terms and conditions of, the City's applicable group insurance plans). The City shall pay the premiums for such coverage, which coverage shall not exceed eight hundred thousand dollars (\$800,000.00) face amount. At the time of Mrs. Hernandez's

departure and official retirement from the City, he shall at her option, be able to continue with life insurance coverage at the rate offered to employees at her expense.

- C. The City shall provide Mrs. Hernandez with professional insurance, including, but not limited to, officers and directors insurance, with such policy and coverage limits as deemed appropriate by the City's risk management consultant.

Section 13. Retirement

- A. Mrs. Hernandez shall be able to participate in the same retirement program as all other management employees of the City. The City agrees to contribute to the Mrs. Hernandez's 401(a) plan an amount not to exceed Eighteen Percent (18%) of her then current, annual salary, in which Mrs. Hernandez shall be immediately vested. The City's contribution to Mrs. Hernandez's 401(a) plan is subject to the availability of funds each fiscal year, which the City Council, in its absolute discretion, may refuse to fund for any given year and/or number of years.
- B. The City agrees to contribute the maximum allowable amount on behalf of the City Manager into her current ICMA-RC Deferred Compensation Plan. The City Manager may elect to take in cash, in whole or in part, the foregoing in the City Manager's sole and absolute discretion but subject nonetheless to applicable Internal Revenue Code provisions. The City's contribution to Mrs. Hernandez's 457 Deferred Compensation Plan is subject to the availability of funds each fiscal year, which the City Council, in its absolute discretion, may refuse to fund for any given year and/or number of years.

Section 14. Expense Account; Other Customary Benefits

- A. Mrs. Hernandez shall be entitled to a monthly expense stipend in the amount of Five Hundred Dollars and No Cents (\$500.00) for expenses incurred by Mrs. Hernandez in the performance of her duties. The amount of the stipend may be adjusted by the City Council in each annual budget to reflect changes in the consumer price index. The City reserves the right to change this stipend from an automatic payment to a reimbursement payment, which would require Mrs. Hernandez to submit reports and receipts corresponding to the expenses for which reimbursement would be sought.
- B. The City shall afford Mrs. Hernandez the right to participate in any other benefits or working conditions as provided for the Administrative Employees of the City.

Section 15. Indemnification

To the extent permitted by law and as limited by Section 768.28, Florida Statutes, the City shall defend, save harmless and indemnify Mrs. Hernandez against any tort, professional liability claims or demand or other legal action out of an alleged act or omission occurring in connection with the performance of Mrs. Hernandez duties so long as Mrs. Hernandez is acting within the scope of her employment. The City, or its insurance carrier, will pay or settle any such claim or suit or judgment rendered thereon.

Section 16. Bonding

The City agrees to bear the full cost of any fidelity or other bonds as may be approved by the City Council pursuant to the City Charter.

Section 17. Code of Ethics

The "Code of Ethics" promulgated by the International City/County Manager's Association (ICMA) of Professional Conduct is incorporated herein and by this reference made a part hereof. Mrs. Hernandez in the performance of her duties agrees to be governed by the referenced Code of Ethics, as may be amended from time to time, and such other ethics policies as are in existence or may be adopted from time to time by the City. Mrs. Hernandez agrees to abide the International ICMA Code of Ethics that was adopted in 1924 whose principles serve as the foundation for the local government management profession and set the standards for excellence that may be amended by the ICMA.

Section 18. Notice

Notices pursuant to this Agreement shall be given by certified mail, return receipt requested, through the United States Postal Services delivery, addressed as follows:

City: Mayor Christi Fraga
City of Doral
8401 NW 53rd
Terrace Doral, FL
33166

City Manager: Barbara C.
Hernandez
City Manager
8401 NW 53rd
Terrace Doral, FL
33166

Any of the foregoing Parties may, by written notice to the other Parties, designate any other address to which subsequent notices, certificate or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or facsimile transmission or three days after the date mailed. Any notice sent by electronic mail shall not be considered delivered unless the recipient has expressly confirmed receipt thereof.

Section 19. Other Terms and Conditions

- A. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.
- 8. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver of any subsequent breach by that party.
- C. This Agreement shall be binding upon and insure to the benefit of the heirs at law or personal representative of Mrs. Hernandez.
- D. This Agreement contains the entire Agreement of the parties. It may not be changed, except by an Agreement in writing signed by the parties.
- E. Florida law shall govern the construction, interpretation, and enforcement of this agreement, and venue for any litigation which may arise that in any way involves this Agreement shall be in Miami-Dade County in a court of competent jurisdiction.
- F. Upon Mrs. Hernandez's death, the City's obligations under this Agreement shall terminate except for:
 - 1. Transfer of ownership of retirement funds, if any, to h e r designated beneficiaries;
 - 2. Payment of accrued leave balances in accordance with this Agreement to h e r designated beneficiaries;
 - 3. Payment of all outstanding hospitalization, medical and dental bills in accordance with City's insurance policies or plans; and
 - 4. Payment of all life insurance benefits in accordance with the City's insurance policies or plans.
- G. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and accordingly, no court or administrative hearing officer construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

- H. It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and/or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- I. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless approved by the City Council and agreed upon by the Parties. Any approved and agreed upon changes to this Agreement shall be reduced to a writing with the same formality as this Agreement.
- J. The rights and obligations herein granted are personal in nature and cannot be assigned, delegated, or transferred by Mrs. Hernandez, except as provided in Section (I)(D) herein.
- K. In any action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its reasonable attorney's fees, including those incurred in any appeals thereof, plus costs.
- L. Any calculation or computations required herein shall be made by the City Finance Director, subject to verification by the Mayor.
- M. On any matter which is not covered or addressed by this Agreement or the City Charter, the general City personnel policies, as amended from time to time, and as may apply, shall control, subject to confirmation by the Mayor and City Attorney.
- N. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument.
- O. Upon satisfactory completion of the graduate coursework and receipt of the graduate degree necessary to satisfy the qualifications identified in the Charter for the City Manager position Mrs. Hernandez shall transition from Acting City Manager to City Manager without any additional action being required of the Mayor and City Council.
- P. During and after Mrs. Hernandez employment with the City, regardless of how, when, or why such employment ends, Mrs. Hernandez shall not make, either directly or by and through another person, any oral or written negative,


disparaging, or adverse statements or representations of or concerning the City, its current or former officials, employees, and/or agents. However, nothing herein shall prohibit Mrs. Hernandez from disclosing truthful information if legally required, however required.

- Q. As a condition precedent to the payment of severance to Mrs. Hernandez upon her separation from the City, pursuant to Section 4 and/or 5 herein, Mrs. Hernandez, on his own behalf and on behalf of his or her heirs and assigns, releases and discharges the City and its officials, employees, agents, attorneys, successors, assigns and all related or affiliated organizations ("Releasees"), from any and all losses, liability, claims, demands, causes of action, grievances or suits of any type in any way connected with, relating to or arising out of any transactions, affairs or occurrences between them to date, including his termination from employment ("Claims"). Except for any rights created by this Agreement, this Release is intended to be interpreted as broadly as possible and to apply to any and all claims available to Employee in any forum, including, but not limited to, any claims for breach of contract, breach of the covenant of good faith and fair dealing, wrongful termination in violation of public policy, employment discrimination, harassment, defamation, violation of the Labor Code, or violation of any provision of federal or state law. Within fifteen (15) days of receipt of the release from Mrs. Hernandez, the City shall cross execute said release and provide the severance payment as provided in Section 4 and/or 5.

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


IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and executed, as of the date first written above

Attest:



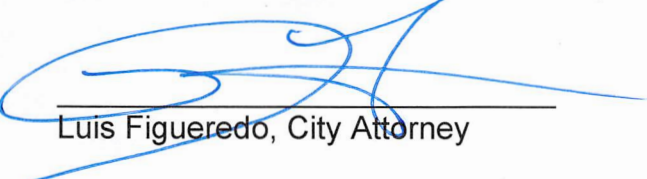
Connie Diaz, MMC, City Clerk

City of Doral



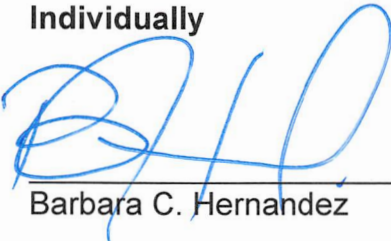
Christi Fraga, Mayor

Approved as to form and legal sufficiency
for the sole use and reliance of the City of Doral



Luis Figueredo, City Attorney

Individually



Barbara C. Hernandez