### AGREEMENT FOR UTILITIES CONNECTION

Project: Doral Central Park

Site Address: 8855 N.W. 27th Street, Doral, Florida 33172

This Agreement for a Utilities Connection ("Agreement") is made as of this day of 2022 ("Effective Date") by and between HPT IHG-2 Properties Trust, a Maryland Real Estate Investment Trust ("Grantor"), and the City of Doral, a municipal corporation (the "City").

#### RECITALS

- A. Grantor is the fee owner of property located at 8855 N.W. 27th Street, Doral, Miami-Dade County ("County"), Florida 33172, currently operated as a Sonesta branded hotel ("Grantor's Property").
- B. City desires to acquire a utility easement for a project ("Project") from Grantor for the benefit of Miami Dade Water and Sewer Department ("Grantee"). The Project is a public works project and for public use.
- C. City has requested, and Grantor has agreed, to allow the City to construct and install a utilities connection within the "Easement Area" (as hereinafter defined) in accordance with all applicable laws and codes and to grant an "Easement" (as hereinafter defined) to Grantee, the form of which is attached hereto as Exhibit B and incorporated herein by this reference ("Grant of Easement").

**NOW, THEREFORE**, in consideration of TEN DOLLARS and 00/100 (\$10.00) and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, agree as follows:

- 1. Recitations. The foregoing recitations are true and correct and are incorporated herein.
- 2. Grant of Easement. Grantor shall grant to Grantee, simultaneously with Grantor's receipt of the "Easement Consideration" (as hereinafter defined) from City, a perpetual non-exclusive sanitary sewer easement ("Easement") on, over, across and under a portion of the Property, more particularly described and depicted on Exhibit "A," attached hereto and incorporated herein by this reference ("Easement Area"), for the Project.
- Sale of Personal Property. City acknowledges that no personal property is being conveyed to City pursuant to this Agreement.
- Delivery of Documents by Grantors. Within fourteen (14) days following the Effective Date hereof, Grantor shall deliver to City the Grant of Easement, duly executed and notarized.
- 5. Easement Consideration. In consideration of the Easement, simultaneously with the delivery of the Grant of Easement to City and in consideration thereof, City shall pay to Grantor the total sum of Eighteen Thousand Dollars 00/100 (\$18,000.00) by certified check made payable to Grantor (\$15,000 for the Grant of Easement and \$3,000 to reimburse Grantor for its legal fees in connection therewith).

- 6. Recordation. Upon the full satisfaction of the terms contained in this Agreement, including without limitation, those contained within Paragraphs 4 and 5 above, City shall have the right to record the Grant of Easement in the Public Records of the County, at the sole expense of City. The terms of the Grant of Easement shall be effective only upon the recordation of same as aforestated.
- 7. No Representations. Grantor makes no representation nor warranty whatsoever respecting the Easement Area, or any portion thereof, or otherwise in connection with the Easement being granted to Grantee. Without limiting the generality of the foregoing, City on behalf of itself and on behalf of Grantee hereby acknowledge and agree that City and Grantee will be acquiring the Easement "AS IS" with all faults, without representation, warranty or guarantee of any kind, either express or implied, including, without limitation, any warranty of condition, merchantability, habitability or fitness for a particular use or purpose or the value, accuracy of information, marketability, prospects for future development, use or occupancy. City on behalf of itself and on behalf of Grantee acknowledge and agree that no employee, agent, legal counsel, nor other representative of Grantor, has been authorized to make, and in executing this Agreement, City on behalf of itself and on behalf of Grantee, hereby acknowledge neither has relied upon, any statement of Grantor, Grantor's employees, agents, or legal counsel, and should City and/or Grantee be mistaken in its belief with regard to some issue of fact or law regarding the matters herein released, it specifically agrees to assume the risk of such mistake, if any exists. City on behalf of itself and on behalf of Grantee hereby acknowledge and agree that each is capable of performing or causing to be performed a thorough and independent investigation, analysis and evaluation of the Easement Area and all other aspects of the transaction contemplated by this Agreement, and that it has had an opportunity to make, and to have its experts make its and their investigation regarding the matters herein released and all laws, rules and regulations related thereto.
- 8. No Liens. City, on behalf of itself and on behalf of Grantee, covenants and agrees that it shall not permit (and shall promptly satisfy or bond) any construction, mechanic's lien or other lien or encumbrance against the Easement Area, if such lien or encumbrance in connection with the exercise by City or City's contractors (or any individual or entity claiming by or through the City (or by or through Grantee as the "grantee" under the Grant of Easement) of its rights or obligations hereunder.
- 9. Notices. Whenever any party hereto shall desire to deliver to the other any notice, demand, request or other communication, each such notice, demand, request or other communication shall be in writing, shall be given by personal delivery, by registered or certified United States mail, return receipt requested, or by overnight courier, postage prepaid, addressed as follows:

To Seller: HPT IHG-2 Properties Trust

c/o The RMR Group LLC

Two Newton Place

255 Washington Street, Suite 300 Newton, Massachusetts 02458

Attn: General Counsel

To City: Hernan Organvidez

City Manager City of Doral 8401 N.W. 53rd Terrace Doral, Florida 33166

With a copy to: Luis Figueredo

City Attorney City of Doral

8401 N.W. 53rd Terrace Doral, Florida 33166 Telephone: (305) 593-6623

Email: luis.figueredo@cityofdoral.com

Any such notice, demand, request or other communication shall be deemed effective on the day of actual delivery or refusal to accept as shown by the addressee's return receipt. If the date on which any notice required to be delivered hereunder falls on a weekend or legal holiday, then such notice may be delivered on the next business day immediately following such weekend or holiday. The foregoing addresses may be changed by notice given in accordance with this Paragraph.

- 10. Amendment; Complete Agreement. All amendments and supplements to this Agreement must be in writing and executed by Grantor and City. All understandings and agreements between the parties regarding the Grant of Easement are merged in this Agreement, which alone fully and completely expresses the agreement of the parties regarding the Grant of Easement and this Agreement. This Agreement has been entered into after full investigation of the facts by both parties and neither party has relied on any statement or representation not embodied in this document. This Agreement has been drafted through a joint effort of the parties and their counsel and therefore shall not be construed against either of the parties as the draftsperson.
- 11. Governing Law. This Agreement shall be governed under the laws of the State of Florida.
- 12. Counterparts, Headings and Defined Terms. This Agreement may be executed in several counterparts each of which shall constitute an original, but all of such counterparts shall constitute one such Agreement. The headings used herein are for convenience only and are not to be construed to be part of this Agreement. For the purposes of this Agreement, (a) the term "including" means "including without limitation," and, (b) when a time period is specified in this Agreement for the performance of an act or the occurrence of an event, "days" shall mean "calendar days," unless otherwise specified herein.
- 13. Time of the Essence. Time is of the essence of this Agreement.
- 14. Waiver. The waiver by one party of performance of any covenant, condition or promise shall not invalidate this Agreement, nor shall it be considered to be a waiver by it of any other covenant, condition or promise. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided in this Agreement shall not be a waiver of any other remedy provided by law.
- 15. Third Parties. With the exception of the Grant of Easement in favor of Grantee and any provisions related to the Grant of Easement, which shall inure to the benefit of the Grantee, nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the

- parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.
- 16. <u>Severability</u>. Should any clause or provision of this Agreement be determined to be illegal, invalid or unenforceable under any present or future law by final judgment of a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a legal, valid and enforceable provision that is as similar as possible in terms to the illegal, invalid or unenforceable provision.
- 17. <u>Additional Documents</u>. Each party hereto agrees to perform any further acts and to execute and deliver any further documents which may be reasonably necessary to carry out the provisions of this Agreement.
- 18. <u>Successors: Binding Effect.</u> Subject to the terms and conditions contained herein, this Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.
- 19. <u>Independent Counsel</u>. Each party acknowledges that it has consulted with and had the opportunity to consult with independent counsel of its own choosing in connection with the negotiation and execution of this Agreement.
- 20. <u>Insurance</u>. The Certificate of Insurance provided by City's contractor naming City, Grantor and Sonesta Hotels International Corporation, as additional insured is attached as <u>Exhibit "C."</u> The certificate and the coverages afforded under the policies referenced therein shall not be cancelled, terminated, or materially changed while the Easement is in effect.
- 21. Site Work, Safety, and Restoration Plan. In addition to any other terms and conditions while construction the utility connection, City hereby covenants and agrees to perform all work within the Easement Area in accordance with all applicable laws and codes and to comply in all respects with the terms and conditions of that certain Site Work, Safety, and Restoration Plan, attached hereto as Exhibit "D," and incorporated herein by this reference. Further, City, with the exception of work required because of an emergency, for the purpose of performing the work required to establish the utility connection and/or future ongoing maintenance of the "Utility Facilities" (as such term is defined in the Grant of Easement), agrees that no work by the City shall be performed on Grantor's Property, including without limitation, within the Easement Area, on Sundays, nor shall any work be performed earlier than 8:00 a.m. nor later than 6:00 p.m. Monday through Saturday. Grantee's rights to access the site and perform work within Grantor's Property shall be specified more particularly in the Grant of Easement.
- 22. Repair Obligation. City, on behalf of itself and on behalf of Grantee, shall take all reasonable steps to ensure against any damage to Grantor's Property, including all improvements thereon, during the course of Grantee's exercise of its rights under the Grant of Easement. City agrees to repair, at the City's expense, any damage to Grantor's Property and any improvements thereon, caused by or resulting from City or Grantee's utilization of the Easement Area.
- 23. <u>Indemnification</u>. City, on behalf of itself and on behalf of Grantee, will defend, indemnify and hold Grantor, its successors and assigns, harmless from and against any and all actions, causes of action, claims, demands, liabilities, losses, judgments, costs and expenses whatsoever (including,

without limitation, reasonable attorneys' fees at trial and appellate levels), arising out of or as a result of the exercise by City or Grantee (or any individual or entity claiming by, through or under Grantee), of City or Grantee's rights or obligations under the Grant of Easement, except to the extent such of the foregoing arise from the gross negligence, recklessness or willful misconduct of Grantor.

- 24. Attornevs' Fees. In the event a party brings suit to enforce any provision of this Agreement against the other party, the prevailing party shall be entitled to recover its costs and expenses (including, without limitation, reasonable attorneys' fees and the costs of services of paralegals, legal assistants and/or law clerks at trial and appellate levels).
- 25. No Waiver of Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth above.

Attest:

CITY OF DORAL

**HPT IHG-2 Properties Trust** 

By:

Name: Todd W. Title: President

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

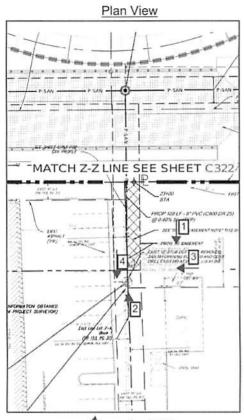
Luis Figueredo, Esq.

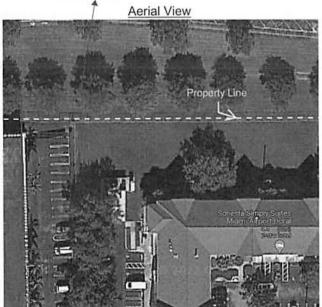
City Attorney

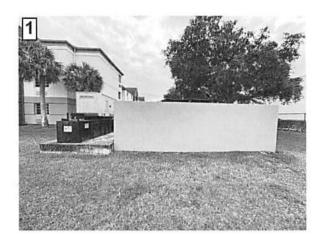
## Exhibit "A" Easement Area

4

### **Existing Condition Documentation (Kaufman Lynn)**













# Exhibit "B" Form of Grant of Easement

# Exhibit "C" Certificate of Insurance



### CERTIFICATE OF LIABILITY INSURANCE

2/28/2023

2/28/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER. AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(les) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

The continue of the continue o		_			
PRODUCER Lockton Companies	CONTACT NAME:				
1185 Avenue of the Americas, Suite 2010	PHONE (A/C, No, Ext): (A/C, No):				
New York NY 10036	E-MAIL ADDRESS:				
646-572-7300	INSURER(S) AFFORDING COVERAGE NAIC #				
	INSURER A: LM Insurance Corporation 33600				
INSURED Kaufman Lynn Construction, Inc.	INSURER B: The First Liberty Insurance Corporation 33588				
1456479 Radinar Lyan Constitution, Inc. 3185 S. Congress Avenue	INSURER C: Allied World National Assurance Company 10690				
Delray Beach FL 33445	INSURER D: *** SEE ATTACHMENT ***				
	INSURER E :	Ξ			
	INSURER F:				
COVERAGES 1st CERTIFICATE NUMBER: 165841	53 REVISION NUMBER: XXXXXXX				

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE		SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
Α	X COMMERCIAL GENERAL LIABILITY	Y	Y	TB5-Z51-291934-022	2/28/2022	2/28/2023	EACH OCCURRENCE \$ 2,000,000
	CLAIMS-MADE X OCCUR						PREMISES (Ea occurrence) \$ 100,000
	X \$0 Deductible	1	[				MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 4,000,000
	POLICY X PRO-						PRODUCTS - COMP/OP AGG S 4,000,000
	OTHER:				_		\$
٨	AUTOMOBILE LIABILITY	Y	Y	AS5-Z51-291934-032	2/28/2022	2/28/2023	COMBINED SINGLE LIMIT S 1,000,000
	X ANY AUTO		!				BODILY INJURY (Per person) S XXXXXXX
	OWNED SCHEDULED AUTOS						BODILY INJURY (Per accident) S XXXXXXX
	X HIRED X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) s XXXXXXX
							s XXXXXXX
C	X UMBRELLA LIAB X OCCUR	Y	N	0311-7332	2/28/2022	2/28/2023	EACH OCCURRENCE \$ 10,000,000
	EXCESS LIAB CLAIMS-MADE	1					AGGREGATE \$ 10,000,000
	DED X RETENTIONS 10,000						s XXXXXXX
В	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Ī	Y	WC6-Z51-291934-012	2/28/2022	2/28/2023	X STATUTE OTH-
	ANY PROPRIETOR/PARTNER/EXECUTIVE N	N/A					E.L. EACH ACCIDENT \$ 1,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT   \$ 1,000,000
D	See Attached	N	N	See Attached	2/28/2022	2/28/2023	
					}		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schodule, may be attached if more space is required)

Doral Central Park located

at 3000 NW 87th Avenue, Doral, FL 33172. City of Doral is included as an additional insured on the General Liability, Automobile Liability and Umbrella policies on a primary and non-contributory basis as required by written contract. A waiver of subrogation applies per written contract.

CERTIFICATE HOLDER	CANCELLATION See Attachments		
16584153 City of Doral, Florida 8401 NW 53rd Terrace Doral FL 33166	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		
	AUTHORIZED REPRESENTATIVE OF THE STATE OF TH		

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Attachment Code: D562265 Master ID: 1456479, Certificate ID: 16584153

Excess Layer 1: \$15M X \$10M

Carrier: The Ohio Casualty Insurance Company

Policy #- ECO (23) 57718548 Eff Date: 2/28/2022 - 2/28/2023

\$15,000,000 Each Occurrence / \$15,000,000 Aggregate

Excess Layer 2: \$10M X \$25M

**Carrier: Gemini Insurance Company** 

Policy #- CEX09604359-01 Eff Date: 2/28/2022- 2/28/2023

\$10,000,000 Each Occurrence / \$10,000,000 Aggregate

Excess Layer 3: \$15M X \$35M

Carrier: Endurance American Specialty Insurance Company

Policy# - ELD30003990601 Eff Date: 2/28/2022 - 2/28/2023

\$15,000,000 Each Occurrence / \$15,000,000 Each Aggregate

**CPPI (Pollution / Professional):** 

**Carrier: Steadfast Insurance Company** 

Policy#: EOC 7560174-00

Eff Date: 2/28/2022-2/28/2023

\$10,000,000 Each Claim / \$10,000,000 Aggregate / \$250,000 Retention



City of Doral, Florida 8401 NW 53rd Terrace DoralFL33166

Dear Kaufman Lynn Construction, Inc. certificate holder:

In an effort to meet demand for instant electronic delivery of certificates, Lockton Companies now provides paperless delivery of Certificates of Insurance. Thank you for your patience and willingness to help us lessen our environmental footprint.

To fulfill your certificate delivery, we need your email address. Please contact us via one of the methods below with your Holder ID number, email address, and phone number in the event we have any questions.

#### Your Holder ID number is 16584153.

• Email: Northeast-TSA@lockton.com

• Toll-free automated phone service: 866-218-4018

If this certificate is no longer needed or valid, please notify us.

Thank you,

**Lockton Companies** 

# Exhibit "D" Site Work, Safety and Restoration Plan

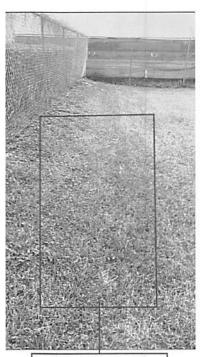
### Site Work, Safety, and Restoration Plan

Kaufman Lynn will be overseeing the installation of a new sanitary utility structure within City of Doral property required for the Doral Central Park Development. This sanitary structure will be tying into an existing sanitary structure located on the parcel in which Sonesta Suites is located (Property Owner listed as HPT CW Properties Trust C/O Thomason Property Tax Services). Roughly 60' of 8" PVC pipe will be installed underground on the Sonesta Suites property to tie in the two sanitary structures.

In consideration of the above, the work involving this installation will require Kaufman Lynn to perform work within the Sonesta Suites property and block off a working zone around the area for construction access only. The work zone will consist of a 70'x20' area and will be fenced off with 6' temporary construction fence (typ.) on stands. The fence will be a continuation of the existing 7' fence on the North limits of the property in order to circumvent unauthorized access from either side of the property. Work hours will be limited from 8AM-6PM at this specific area of construction. The nature of underground utility work limits overhead hazards typically associated with construction, however any material being lifted overhead will be contained within the construction zone with a spotter notifying any parties outside of the fence. Adequate signage and postings will be mounted to the exterior of the construction fence notifying parties of the construction zone/hazards as well as providing immediate contact information for the construction team.

The current condition of the area in question consists of sodding as well as a 7' fence at the North property line. The anticipated restoration intended at the area will be the resodding of the working zone area noted below as well as replacement of roughly 15'-20' of chainlink fencing to match the existing. Note that areas outside of the work zone unaffected by this scope will not be worked on and as such will not be restored. Existing damage is noted at the exterior of the nearby dumpster enclosure at all sides as well as unmaintained sodding.





Disturbed areas to be resodded to match existing



Fencing which is removed at North Property line to be replaced to match existing

### **RESOLUTION No. 22-185**

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT BETWEEN THE CITY OF DORAL AND HPT IHG-2 PROPERTIES TRUST TO ACQUIRE A UTILITY EASEMENT AGREEMENT FOR THE PROPERTY LOCATED AT 8855 NW 27 STREET, DORAL, FL 33172 FOR DORAL CENTRAL PARK; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in 2018, the City of Doral Residents voted on a Parks Bond referendum to build state of the art facilities in several parks including Doral Central Park (DCP); and WHEREAS, DCP will be the largest park in the City and one of the largest in the region; and

WHEREAS, as part of the construction of the infrastructure necessary to provide water and sewer service to the park, the city needs to tie into the existing infrastructure on the adjacent property; and

WHEREAS, to accomplish this, the City has negotiated an Access and Utilities Agreement and Grant of Easement with the property owner and an indemnity agreement with Miami Dade County Water and Sewer Department (MDWASD).

WHEREAS, MDWASD has given the City a conditional approval for the connection subject to the city securing the easement for MDWASD's sole use in the maintenance of the infrastructure.

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

<u>Section 1.</u> Recitals. The foregoing "WHEREAS" clauses are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. Approval. This Mayor and City Council hereby approve and authorize the City Manager to execute agreement between the City of Doral and HPT IHG-2 Properties Trust to acquire a Utility Easement Agreement and to execute the indemnity in favor of Miami-Dade County Water and Sewer Department, and expend budgeted funds from the Park General Obligation Bond-Series 2021 Capital Project Fund account 305.90005.500650.

<u>Section 3.</u> <u>Effective Date.</u> This Resolution shall become effective upon approval by the City Council.

Res. No. 22-185 Page **3** of **3** 

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

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

PASSED AND ADOPTED this 5 day of October, 2022.

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