

THIS INSTRUMENT WAS PREPARED BY
AND AFTER RECORDING RETURN TO:

Manuel J. Vadillo, Esq.
Sanchez Vadillo LLP
1200 Brickell Avenue
Suite 1480
Miami, Florida 33131

**PARKING COVENANT AND INGRESS AND EGRESS, CROSS-
ACCESS EASEMENT**

MAY THIS PARKING COVENANT (this "**Agreement**") is made and entered into as of ~~April~~ **26**, 2020 (the "**Effective Date**") by **Divine Savior Lutheran Academy Inc.**, a Florida non-profit corporation (the "**Grantor**"), **Doral Professional Plaza LLC**, a Florida limited liability company ("hereinafter referred to as "**Grantee**").

RECITALS

A. Grantor is the owner in fee simple of three (3) parcels of real property whose folio #'s are 35-3017-001-0382; 35-3017-001-0392; and 35-3017-029-0010 in Miami-Dade County, Florida, as more particularly described in **Exhibit A** attached hereto and by this reference made a part of this Agreement (the "**Grantor Property**") upon which a parking lot exists containing a total of two hundred ninety eight (298) parking spaces (the "**Parking Lot**") of which only two hundred sixty eight (268) are required by law, as more particularly described in site plan survey attached hereto as **Exhibit C** and by this referenced made a part of this Agreement (the "**Site Plan**"); as well as the traffic impact study, as more particularly described in **Exhibit D** attached hereto and by this reference made a part of this Agreement (the "**Traffic Study**");

B. Grantee is the owner in fee simple of one (1) parcel of real property located at 6055 NW 104th Avenue, Doral, FL 33178 (folio # 35-3017-001-0383) in Miami-Dade County, Florida, as more particularly described in **Exhibit B** attached hereto and by this reference made a part of this Agreement (the "**Grantee Property**");

C. Grantee shall build on the Grantee Property an approximately 6,955 square feet, two-story educational building that will include two (2) playgrounds and twelve parking spaces (the "Improvements").

D. Grantor is willing to enter into this Agreement to provide the Grantee the use of twenty-eight (28) parking spaces on the Parking Lot;

D. City of Doral (the "**City**") desires and Grantor and Grantee are willing to grant a non-exclusive ingress/egress, cross-access easement for pedestrian and vehicular access to the site located on the Southwest corner of Tract 38 of Grantor's Property currently designated for an antenna (the "**Site**").

NOW, THEREFORE, for good and valuable consideration paid by Grantees to Grantor and the mutual covenants, terms and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantees agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and are expressly incorporated into this Agreement.

2. **Grant of Parking Easement.** Grantor hereby grants, bargains and conveys to Grantee a non-exclusive easement (the "**Parking Easement**") to enter upon or permit its guests, invitees, and other designees (the "**Permitted Users**") to enter upon the Grantor Property for the purpose of parking motor vehicles in the Parking Lot in connection with Grantee's reasonable business operations (the "**Permitted Use**"). Grantee and its Permitted Users are only allowed to use the specific number of parking spaces on the Parking Lot.

3. **Use of the Parking Lot.** Grantee covenants and agrees that they shall use their best efforts to avoid causing any damage to or interfere with any Improvements on the Grantor Property and to minimize any disruption or inconvenience to Grantor, any other party to this Agreement or any other person using the Parking Lot with Grantor's permission. There shall be no assigned parking spaces in the Parking Lot unless Grantor assigns same in its sole and absolute discretion, and such assignment or license to use shall not be recorded in the Public Records of Miami-Dade County, Florida.

4. **Term.** This Agreement shall not expire and run perpetual with Grantee Property. Notwithstanding the foregoing, in the event that the Improvements to be constructed within two (2) years from the date of this Agreement on the Grantee Property, are no longer on the Grantee Property, then such Grantee's rights under this Agreement shall automatically terminate and be of no further force or effect with respect to such property that does not contain such Improvements.

5. **Usage Fees.** Grantor hereby acknowledges receipt of sufficient consideration afforded by Grantee for the uses and rights received by Grantee stated herein.

6. **Unlawful Use.** Grantee shall cause the Permitted Users of the Parking Lot to not occupy or use the Parking Lot for any purpose which is unlawful, disreputable, deemed extra-hazardous or would in any way increase the rate of fire, liability or any other insurance coverage on the Parking Lot.

7. **Grantor's Use of Property.** Grantor reserves the right to use the Grantor Property in any manner and for any purpose that does not interfere with Grantees' rights under this Agreement and its use of the Parking Easement.

8. **Parking Easement Non-Assignable.** While the Parking Easement is a covenant that runs with the land, Grantee may not assign or convey the Parking Easement except as an appurtenant assignment with the sale or conveyance of the Grantee Property, and any assignment of the Parking Easement that is not appurtenant to the conveyance of the Grantee's land shall be void and of no force and effect.

9. **Ingress and Egress Easement.** Grantor and Grantee hereby grant unto the current

tenant of the Site, its successors and assigns, a non-exclusive easement (“Easement”) for ingress and egress over, along and across the Grantor’s Property and the Grantee’s Property, as applicable, for the use, maintenance or repair of the Site.

10. Liens. Grantee shall not permit any claim, lien, or other encumbrance to attach to the Grantor Property or the interest of Grantor in the Grantor Property.

11. Indemnity. Grantee shall indemnify, defend, protect, and hold Grantor and Grantor’s officers, directors, members, partners, agents, and employees harmless from and against any and all actual or potential claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses, including, without limitation, reasonable attorney’s fees and costs, that arise out of or relate in any way to (a) any act or omission of Grantee, or any of its respective agents, contractors, employees, or invitees, including the Permitted Users; (b) any breach or default in the performance of Grantee’s obligations under this Agreement; (c) any matter arising from an event occurring on the Grantor Property not caused by Grantor. Grantee, as applicable, shall defend Grantor, at its expense with counsel reasonably acceptable to Grantor or, at Grantor’s option, Grantee, shall joint and severally reimburse Grantor for any reasonable legal fees or court costs incurred by Grantor in connection with any such claim.

12. Grantor Not Liable. In no event shall Grantor be liable for any damage to, or loss of personal property or equipment or for any personal injury sustained by Grantee or the Permitted Users within the Grantor Property, whether or not it is insured, unless such loss is caused by Grantor’s gross negligence or intentional malfeasance. Grantor is not obligated to provide any security for the Grantor Property, and if Grantor does provide security, Grantor makes no representations or warranties regarding the suitability or effectiveness of such security. Grantee understands, acknowledges, and agrees that the use of the Parking Lot is at their (and their Permitted User’s) own risk.

13. Hazardous Materials. Grantee is specifically prohibited from using the Parking Lot for the storage, transfer, generation, disposal, or discharge of any hazardous materials as such would be defined by the Florida Department of Environmental Protection or the Comprehensive Environmental Response, Compensation, and Liability Act.

14. Liability Insurance. Unless waived by Grantor in writing, Grantee shall maintain a policy or policies with the premiums thereon fully paid in advance, issued by and binding upon an insurance company admitted to do business in the State of Florida, and which have an Am Best Rating of “A-” or better, of general liability insurance (which may be in conjunction with excess liability policy) to provide limits of at least Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence, and workers compensation coverage per State of Florida requirements with employer liability limits of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) or better. The insurance obtained by Grantee shall name Grantor as an additional insured and shall specifically insure Grantee’s interest in and use of the Grantor Property. Each Grantee shall provide evidence of such insurance on an annual basis.

15. Notices. All notices, requests, consents, and other communications under this Agreement (“**Notices**”) shall be in writing and shall be personally delivered, mailed by certified mail, return receipt requested, postage prepaid, or sent by overnight delivery service, next Business Day delivery guaranteed, to the parties as follows:

In the case of Notices to Grantor:

Divine Savior Lutheran Academy Inc.
10311 NW 58th Street
Doral, FL 33178
Attention: Pastor Carlos Leyrer

In the case of Notices to Grantee:

Doral Professional Plaza LLC
10767 NW 76th Lane
Doral, FL 33178
Attention: Lino Fayen

In the case of Notices to City:

City of Doral
~~6401 NW 53rd Terrace~~
~~Doral, FL 33126~~
Attention: JAVIER GONZALEZ

Except as otherwise provided in this Agreement, any Notice shall be deemed given only upon actual delivery (or refusal of delivery) at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-Business Day, shall be deemed received on the next Business Day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-Business Day, the Notice period shall be extended to the next succeeding Business Day. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties. The term "**Business Day**" means any day that the New York Stock Exchange is open and scheduled for a full day of trading.

16. Condemnation of Parking Lot. If all or substantially all of the Grantor Property should be taken by any governmental or other entity having the power of eminent domain, then the Parking Easement shall be terminated and be of no further force and effect.

17. Severability. If any term or provision of this Agreement or the application thereof to any purpose or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or of the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall remain valid and enforceable. Each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. Successors and Assigns. This Agreement and all of the covenants, terms, conditions, provisions and undertakings contained herein, shall extend to, be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto. If Grantee (or its respective successors or assigns) conveys ownership of the Grantee Property, then such assignee must provide written notice to the then fee simple owner of the Grantor Property that such assignee agrees to be bound to the terms and conditions of this Agreement. No third parties shall be deemed

to be third party beneficiaries under this Agreement.

19. **Attorneys' Fees.** Grantor and Grantee understand, acknowledge, and agree that it shall be solely responsible for its own attorney's fees and costs in the preparation and negotiation of this Agreement. In any proceeding arising out of or in connection with this Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' and paralegals' fees and expenses, including fees on appeal and in bankruptcy and insolvency proceedings.

20. **Governing Law / Venue.** This Agreement shall be construed in accordance with the laws of the State of Florida, excluding principles thereof governing conflicts of law. Venue for any action or dispute brought hereunder shall be exclusively in the Miami-Dade County, Florida.

21. **Jury Trial.** Grantor and Grantee waive trial by jury in any action, proceeding or counterclaim brought by Grantor or Grantee against the other for any matter whatsoever arising out of or in any way connected with this Agreement.

22. **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or as a .pdf file shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

23. **Limitation of Grantor's Liability.** Grantor shall have no personal liability

hereunder, and Grantees' sole remedies in respect of Grantor's breach of any of Grantor's obligations hereunder shall be (i) to terminate this Agreement, or (ii) to seek specific performance of such obligation.

24. City of Doral Provisions. Grantor and Grantees declare that this Agreement is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the Grantor Property and shall constitute a covenant running with the land and shall be binding upon the undersigned, its successors and assigns and may only be released, modified, or amended by written consent of Grantor, Grantee, and the Planning and Zoning Director of the City of Doral, or its successor, in accordance with the ordinance of the City then in effect or as set forth in this Agreement. Grantor and Grantee agree to indemnify, defend, and hold harmless the City of Doral, its commissioners, officers, attorneys, consultants, agents, and employees from and against all claims, damage losses, and expenses, direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting, in whole part, from my execution of this Agreement or from any claim or allegation related to my capacity or authority to execute this Agreement. Moreover, the undersigned agree that nothing in this indemnification and hold harmless provision shall be considered to increase or otherwise value any limits of liability, or to value any immunity, established by Florida Statutes, case law, or any other source of law afforded in the City of Doral.

25. Recording. At Grantor's sole expense, this Agreement shall be recorded in the Public Records of Miami-Dade County, Florida, and Grantee shall provide the City of Doral with a copy of the recorded Agreement within thirty (30) days of recording.

26. Entire Agreement. This Agreement, together with the Exhibits attached hereto, contains the entire agreement between the parties with respect to the subject matter hereof and may only be modified, amended or terminated as set forth herein. This Agreement may not be amended or modified, except by agreement in writing, signed by the parties affected by the amendment which includes but not limited to the Planning and Zoning Director of the City of Doral. Any such amendment or modification shall become effective upon the date of recordation in the Public Records of Miami-Dade County, Florida.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

WITNESSES:

Sign: Shawna Mehlberg

Print: Shawna Mehlberg

Sign: Alyssa Warneke

Print: Alyssa Warneke

GRANTOR:

Divine Savior Lutheran Academy, Inc.,
a Florida corporation

By: [Signature]

Name: Carlos C. Leyrer

Title: President

STATE OF Florida)
COUNTY OF Miami-Dade) SS.:

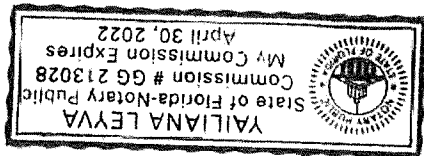
I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this
27th day of May, 2020, by Carlos C. Leyrer as President of

Divine Savior Lutheran Academy, Inc., a Florida corporation. He is personally known to me or ()
has produced

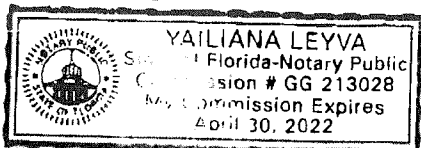
as identification.

[Signature]
NOTARY PUBLIC, State of Florida at Large

Print Name: Yailiana Leyva
My commission expires: April 30, 2022



[NOTARY STAMP]



[ADDITIONAL SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESSES:

Sign: [Signature]
Print: Rafael Franco

Sign: [Signature]
Print: PEDRO FEPEZ

GRANTEE:

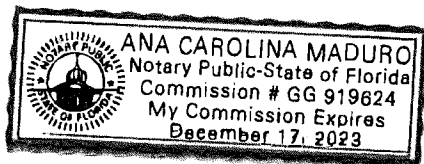
Doral Professional Plaza LLC, a Florida limited liability company

By: [Signature]
Name: Juan Manuel Fayen Lonjon
Title: Manager

STATE OF FLORIDA)
)
COUNTY OF MIAMI DADE)

SS.:

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this day of MAY 28th, 2019, by Juan Manuel Fayen Lonjon as Manager of Doral Professional Plaza LLC, a Florida limited liability company. He is personally known to me or (✓) has produced DRIVERS LICENSE as identification.




[NOTARY STAMP]

NOTARY PUBLIC, State of Florida at Large

Print Name: ANA CAROLINA MADURO
My commission expires: 12/17/2023
[Signature]

[ADDITIONAL SIGNATURES APPEAR ON THE FOLLOWING PAGE]

Approved as to Form and Correctness:

Sign: 
Name: Luis Figueredo
Title: City Attorney


Sign: 
Name: Javier Gonzalez
Title: Acting Planning and Zoning Director

EXHIBIT A

Grantor Property

LEGAL DESCRIPTION

Folio # 35-3017-001-0382

The West 1/2 of Tract 38, LESS AND EXCEPT the East 131.59 Feet thereof, and LESS AND EXCEPT the West 132 feet thereof, in Section 17, Township 53 South, Range 40 East, of FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1, according to the Plat thereof, as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County Florida.

Folio # 35-3017-001-0392

The North 1/2 of West 1/2 of West 1/2 of Tract 39, in Section 17, Township 53 South, Range 40 East, of FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1, according to the Plat thereof, as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County Florida.

Folio # 35-3017-029-0010

TRACT "A", DIVINE SAVIOR SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 167, PAGE 48, of the Public Records of Miami-Dade County Florida.

EXHIBIT B

Grantee Property

LEGAL DESCRIPTION

The West 132 feet of the West 1/2 of Tract 38, in Section 17, Township 53 South, Range 40 East, of Florida Fruit Lands Company Subdivision, according to the Plat thereof as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida.