

**RESOLUTION No. 22-198**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE DOWNTOWN DORAL SOUTH MAINTENANCE COVENANT DEVELOPED BY CODINA PARTNERS, LLC IN COORDINATION WITH CITY STAFF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the developers of Downtown Doral South have constructed and installed improvements along the Downtown Doral South area; and

**WHEREAS**, the area is bounded by NW 87th Avenue on the west, NW 81st Avenue on the east, NW 51st Terrace on the north, and NW 41st Street on the south; and

**WHEREAS**, the improvements include stormwater drainage improvements, irrigation, landscaping, streetlighting, and sidewalks; and

**WHEREAS**, during the planning and permitting phase of the Downtown Doral South development, the City advised the developer that all these improvements would be maintained by the area's association and/or the community development district (CDD); and

**WHEREAS**, Codina Partners, LLC in coordination with City Staff developed the attached Maintenance Covenant (Covenant) addressing City staff concerns and designating the maintenance responsibility for the area; and

**WHEREAS**, city Staff respectfully requests that the Mayor and the City Councilmembers authorize the City Manager to execute the Maintenance Covenant.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL  
OF THE CITY OF DORAL 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 Downtown Doral South Maintenance Covenant, a copy of which is attached hereto as Exhibit "A", is hereby approved.

**Section 3. Authorization.** The City Manager is authorized to execute the Maintenance Covenant on behalf of the City in furtherance hereof.

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

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

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

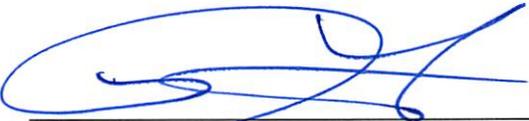
PASSED AND ADOPTED this 5 day of October, 2022.

  
\_\_\_\_\_  
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

# EXHIBIT “A”

**This Instrument Prepared by and Return to:**

Jose M. Jimenez., Esquire  
Codina Partners, LLC  
2020 Salzedo Street  
5<sup>th</sup> Floor  
Coral Gables, FL 33134

**MAINTENANCE COVENANT**

THIS MAINTENANCE COVENANT ("Covenant") is made and entered into effective as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Doral, Florida, a municipal corporation (the "City"), having an address at 8401 NW 53<sup>rd</sup> Terrace Doral, Florida 33166, and Downtown Doral South Community Development District, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes (the "District") having an address at 5385 N. Nob Hill Road, Sunrise, Florida 33351.

**W I T N E S S E T H :**

WHEREAS, the District is responsible for the maintenance of certain infrastructure serving portions of the Downtown Mixed Use development known as Downtown Doral South ("DDS," the "Project"), which boundaries are more particularly defined in Exhibit A; and

WHEREAS, the City is the owner of certain roadways and rights-of-way within the Project (the "Roadways"); and

WHEREAS, the developers of the Project and the District have or will install the Drainage Improvements, as more specifically described in this Covenant, within the Roadways for purposes of draining stormwater from certain property and roadways within the Project; and

WHEREAS, the developers of the Project and the District will have or will also install and maintain irrigation, landscaping, streetlighting, and sidewalks within the Roadways as more particularly described in the plans for such Roadways approved by the City (the "Other Roadway Improvements," and together with the Drainage Improvements, the "Improvements").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by

reference.

## 2. DRAINAGE IMPROVEMENTS.

- a. The District is seeking to install a stormwater drainage system under a portion of the Roadways in accordance with the applicable Miami-Dade County and South Florida Water Management permits and regulations, to provide drainage and flowage of stormwater from the District's property through pipes running under the Roadways as substantially depicted and attached hereto as Exhibit B (the "Drainage Improvements").
- b. The District shall satisfy all State, County and City plan reviews, permitting and construction standards, including, but not limited to, the location where drainage pipes can be installed and specifying the standards for drainage system construction in connection with the installation of the Drainage Improvements.
- c. The District shall maintain the Drainage Improvements in good repair at all times, at its sole expense, which maintenance shall include, but not be limited to, desilting of inlets, manholes and piping system, and removal of any obstruction within the system. The maintenance shall be performed on all inlets and manholes on a yearly basis, and approximately twenty percent (20%) of the piping system every year, so that maintenance is performed on the entire piping system every five (5) years. The District shall, if requested by the City, provide proof of such maintenance in the form of a report with copies of the service receipts. The report shall include a map depicting the exact infrastructure serviced. In the event the Drainage Improvements cannot be repaired, the District shall promptly submit plans and upon approval by the City and regulatory agencies, replace and/or install a new drainage system at its cost. The District shall be entitled to enter the Roadways as necessary to perform necessary maintenance, subject to standard permit requirements. The City shall have the right, but not the obligation, to repair the Drainage Improvements upon giving the District 30-days written notice of any necessary repairs, and the District's failure to perform the repair within an additional 30-day period. The cost of repair shall be charged to and shall be reimbursed by the District within 30-days of receipt of the invoice from the City.
- d. The District shall have the right to enter the Roadways for the purpose of constructing and maintaining the Drainage Improvements. The District shall secure necessary permits from the City to perform the work and shall notify the Public Works Department of its work schedule and work plans.

## 3. OTHER ROADWAY IMPROVEMENTS.

- a. The District intends to install Other Roadway Improvements, such as sidewalks and pedestrian ramps, in accordance with the applicable Miami-Dade County permits and regulations.
- b. The District shall satisfy all State, County and City plan reviews, permitting and construction standards in connection with the installation of the Other Roadway

Improvements.

- c. The District shall maintain the Other Roadway Improvements in good repair at all times, at its sole expense. The District shall be entitled to enter the Roadways as necessary to perform necessary maintenance, subject to standard permit requirements. The City shall have the right, but not the obligation, to repair the Other Roadway Improvements upon giving the District 30-days written notice of any necessary repairs, and the District's failure to perform the repair within an additional 30-day period. The cost of repair shall be charged to and shall be reimbursed by the District within 30-days of receipt of the invoice from the City.
- d. The District shall have the right to enter the Roadways for the purpose of constructing and maintaining the Other Roadway Improvements. The District shall secure necessary permits from the City to perform the work and shall notify the Public Works Department of its work schedule and work plans.

4. RESERVATION OF RIGHTS. The City reserves the right to enter upon the Roadways at any time for any municipal purpose, including, but not limited to, clearing accidents, maintaining the Roadways, and placement of telecommunication cables and equipment. The City, or its agents and licensees, and independent contractors, shall disturb the Improvements as little as possible to accomplish the municipal purpose, and shall make any and all repairs resulting therefrom.

5. CORRECTION OF UNSAFE CONDITION.

- a. The Improvements shall be maintained in a safe condition at all times by the District. In the event the City determines that an unsafe or dangerous condition exists in the Roadways which is caused in whole or in part by the failure to maintain or to restore the Improvements, the City has the right, after giving the District 30-days written notice, to cure, repair, correct or modify the Improvements and the affected Roadways at the District's expense.
- b. If the City determines that the unsafe or dangerous condition is of an emergency nature, which threatens public safety or damage to property, it may take immediate action to remedy the situation. The City shall give notice of the emergency condition and the corrective action to the District as soon as is practicable.

6. INDEMNIFICATION AND HOLD HARMLESS. To the extent permitted by Florida law, the District shall indemnify, defend and hold the City harmless for any claim, investigation, settlement, judgment or expense, including reasonable attorney's fees and costs necessarily incurred, arising out of or relating to any claim for death or bodily injury, property damage, including damage to the right-of-way, or personal injury that is allegedly caused in whole or in part by the construction and maintenance, or the failure to maintain, the Improvements.

7. INSTALLATION OF DRAINAGE IMPROVEMENTS. The District shall install all Drainage Improvements, at the District's cost, pursuant to the Plans and to current code requirements for both stormwater quantity and quality to the extent required pursuant to applicable City of Doral and Miami-Dade County Codes, and any other applicable agency.

8. [INTENTIONALLY DELETED].

9. DURATION OF RIGHTS AND OBLIGATIONS. The rights, powers and obligations under this Covenant shall run with the property for 30 years from the effective date and shall bind the successors, assigns and heirs of the District after which time it shall be automatically extended for successive periods of ten (10) years unless an instrument mutually agreed upon and executed by the parties has been recorded providing for the release, amendment, or modification of this covenant agreeing to release, amend, or modify this Covenant in whole, or in part, as provided below.

10. RIGHT-OF-WAY DEDICATIONS. The obligations, conditions, and statements agreed to by the District pursuant to and contained in this Covenant shall supersede any future dedications of rights-of-way within the District.

11. RECORDING. This Covenant shall be recorded in the records of Miami-Dade County and the District shall be encumbered by this Covenant.

12. ASSIGNMENT, MODIFICATION, AMENDMENT, RELEASE. This Covenant may be assigned, modified, amended or released as to the District, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the subject property, including joinders of all mortgagees, if any, provided that the same is also approved in writing by the City.

13. NOTICES. All notices given or required under this Covenant shall be deemed sufficient if sent by certified mail, return receipt requested, to the addresses of the District specified in this Covenant, unless the District shall specify in writing different address for the giving of notices.

14. CONTRACTING OFFICER REPRESENTATIVE. For the purposes of this Covenant, the contracting representatives are as follows:

As to the City:	City of Doral 8401 NW 53 <sup>rd</sup> Terrace Doral, Florida 33166 Attention: Mr. Hernan M. Organvidez, Acting City
Manager	
Copy to:	Luis Figueredo, Esq. City Attorney 8401 NW 53rd Terrace Doral, Florida 33166
As to the District:	Downtown Doral South Community Development District 5385 N. Nob Hill Road Sunrise, Florida 33351 Attn: Rich Hans
Copy to:	Billing, Cochran, Lyles, Mauro & Ramsey, P.A. Sixth Floor

515 East Las Olas Boulevard  
Ft. Lauderdale, Florida 33301  
Attn: Dennis E. Lyles, Esq.

Copy to:

Joe Jimenez  
Codina Partners  
2020 Salzedo Street  
5<sup>th</sup> Floor  
Coral Gables, Florida 33134

15. INSURANCE. The District, its successors, assigns, and heirs, shall maintain throughout the period of this Covenant Comprehensive General Liability insurance and coverage for legal liability for loss or damage to Improvements and the City's right-of-way arising from negligence of the District's employees. During construction, the District will maintain, or cause to be maintained, Builder's Risk Insurance and Worker's Compensation Insurance. The policies shall have minimum limits no less than \$1,000,000.00, and name the City as an additional insured.

16. SIGNATORY AUTHORITY. The officials executing this Covenant warrant and represent that they are authorized by their respective agency to enter into a binding Covenant.

17. ENFORCEMENT; COSTS AND FEES. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants herein. To the extent permitted by applicable law, the prevailing party shall be entitled to recover from the other all costs incurred, including reasonable attorney's fees and costs for trial, alternate dispute resolution, or appellate proceedings. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

18. ASSIGNMENT. All of the easements, covenants, conditions and obligations herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties. Subject to the provisions of Section 18 of this Covenant, the District shall have the right to assign its rights and obligations in this Covenant to one or more successors of the District, provided, however, that upon any such assignment, any such assignee shall agree to be bound by the terms and conditions set forth in this Covenant.

19. SUCCESSORS AND ASSIGNMENT. The rights and obligations created by this Covenant shall be binding upon and inure to the benefit of the District and the City, their successors and assigns, and shall likewise burden each party according to the terms hereof. This Covenant may not be assigned, in whole or in part, without the prior written consent of all parties, and such written consent shall not be unreasonably withheld.

20. NON-WAIVER OF SOVEREIGN IMMUNITY. The City and the District do not waive sovereign immunity, and shall not be liable for the payment of attorney's fees or prejudgment interest.

21. JURISDICTION AND VENUE. For the purposes of this Covenant, Florida law shall govern the terms of this Covenant. Venue shall be in Miami-Dade County, Florida.

22. WAIVER OF TRIAL BY JURY. The City and the District hereby knowingly,

irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect of any action, proceeding or counterclaim based on this Covenant, or arising out of, under, or in connection with this Covenant.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]



**WITNESS:**

**DOWNTOWN DORAL SOUTH  
COMMUNITY DEVELOPMENT DISTRICT**, a  
local unit of special purpose government  
established pursuant to Chapter 190, Florida  
Statutes

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

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

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

Title: \_\_\_\_\_ of the Board of Supervisors

STATE OF

)

)SS

COUNTY OF MIAMI-DADE

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I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by \_\_\_\_\_, the \_\_\_\_\_ of the Board of Supervisors of DOWNTOWN DORAL SOUTH COMMUNITY DEVELOPMENT DISTRICT, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes, who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed, printed or stamped name of Notary Public

My Commission Expires:

**EXHIBIT A**

**Legal description of the property as per 'Exhibit A' of the Amended and Restated Master Development Agreement, recorded in ORB 30296, PAGE 1525 of the Miami Dade County public records.**

**EXHIBIT B**