

TRIANGLE PARK LEASE

THIS LEASE (the "Lease") made and entered into this 4th day of November, 2016 by and between Parcel A6 Property, LLC, a Florida Limited Liability Company, and its successors and/or assigns, (hereinafter referred to as "Landlord") and the City of Doral (hereinafter referred to as "City"). Landlord and City may be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Landlord and the City entered into a Downtown Doral Roadway Improvement and Public Park Area Improvement and Maintenance Agreement ("Road and Park Agreement") as part of fulfilling the obligations of the master development agreement of the mixed use project commonly known as Downtown Doral (the "Project"); and

WHEREAS, on February 24, 2016, the City Council by Resolution 16-46 approved an amendment to the Road and Park Agreement, which revised certain obligations, specifically the construction of NW 54th Street, and provided that the City would undertake responsibility for the construction of the NW 54th Street, in exchange for the conveyance of a certain parcel of land adjacent to Downtown Doral Park, commonly known as the "Triangle Parcel" (hereinafter the "Triangle Parcel" or "Premises"); and

WHEREAS, City has already begun to undertake the process of permitting the plans for the construction of NW 54th Street; and

WHEREAS, Landlord has similarly begun the process of conveying the Triangle Parcel to the City; and

WHEREAS, the City has a need to use the Triangle Parcel for various purposes in advance of its conveyance, and Landlord wishes to facilitate the City's use of the Triangle Parcel in advance of conveyance in an a manner that protects the interests of the Parties; and

WHEREAS, in furtherance of the foregoing, Landlord and the City wish to enter into this short term lease agreement (the "Agreement") under the terms and conditions specified herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein and made a part hereof by this reference, the mutual promises made herein, and other good and valuable consideration, the sufficiency and receipt of which the Parties acknowledge, the Parties hereby agrees as follows

1. Premises: Landlord, as the owner of the Triangle Parcel, and in consideration of the sum of TEN DOLLARS AND NO CENTS (\$10.00) does hereby, under the terms, conditions and provisions hereinafter set out and under appropriate corporate authority, rent and lease unto

the City the Triangle Parcel, described and shown on Exhibit "A", attached hereto and made a part hereof by reference, lying, being and situated in Miami-Dade County, Florida.

2. Terms: The term ("Term") of this Lease shall commence on the date when Landlord shall deliver possession of the Premises to City of this Lease ("Rental Commencement Date") and shall end on the sooner of six (6) months or the conveyance of the Triangle Parcel to the City.

3. Use: The Premises shall be solely used for the purposes, and in accordance with the procedures, described in the Road and Park Agreement. All areas of the Premises shall be for the exclusive use of the City, its employees, agents, students, parents and other necessary persons, unless the City, in its sole discretion, approves use by the Landlord.

4. Compliance with Public Authorities: The City shall, during all times when this Lease is effective, materially comply with all statutes, ordinances, rules, orders, regulations or requirements of the federal, state and city and of any and all their departments and bureaus for the correction, prevention and abatement of nuisances or other grievances, in or upon the Premises, which must be complied with by reason of the nature of the use of the Premises by the City.

5. Maintenance of Demised Premises: Upon taking possession, the City, at its own cost, shall be required to keep the Premises properly maintained, including, without limitation, regular mowing of the grass and kept free of debris. City shall permit no waste, damage or injury to the Premises and City shall initiate and carry out a program of regular maintenance of the Premises

6. Indemnity and Insurance: City further covenants that it will indemnify and save Landlord harmless against any and all legal liability, penalties, damages, expenses and judgments arising from injury or damage during the Term hereof to person or property occasioned by any act or acts, omissions or commissions of City, or of any employees, students or trespassers of City, growing out of the use and occupancy of the Premises, and this shall be construed to include any such liability of Landlord by virtue of its ownership of the Premises. City at its expense shall maintain during the term hereof General Comprehensive Public Liability Insurance covering the Premises, which policy will provide liability limits of not less than any other park owned and operated by the City of Doral for each accident or occurrence of personal injury or death and for each accident or occurrence of damage to property. The policy hereinabove required will be in form reasonably satisfactory to Landlord and in companies reasonably acceptable to Landlord and will name both City and Landlord as insureds. Duplicate originals of all policies or certificates thereof shall be deposited with Landlord. Payment of damages under the policies to be obtained by City hereunder shall be primary to payment under any separate umbrella policies that may be carried by Landlord from time to time.

Except to the extent caused by Landlord's gross negligence or the gross negligence of its agents, or officers, the Landlord shall not be liable for:

- (a) for the death of or injury to the City or others arising from or out of any occurrence in, upon, at or relating to the Premises;
- (b) for the loss of or damage to property of the City or others by theft or otherwise;
- (c) for the death, injury, loss or damage of or to persons or property resulting from fire, explosion, falling, plaster, steam, gas, electricity, water (including sewer backup), rain, snow or leaks from any part of the Premises or from any pipes, appliances or plumbing works thereof or from the roof, street or sub-surface of any floor or ceiling, or from any floor or ceiling, or from any other place, or from dampness or freezing, or resulting from construction, alterations or repairs, or from any other cause of any kind;
- (d) for damages for personal discomfort, illness, loss of business or otherwise resulting from interruption or cessation of the heating, ventilating, air-conditioning or other utility services to be or being provided to the Premises or any portion of the Premises, whether by the Landlord or otherwise, howsoever caused;
- (e) for loss or damage howsoever caused including, without limitation, loss or damage caused by persons in the Premises, occupants of property adjacent thereto or the public, or caused by construction or any private, public or quasi-public works; and/or
- (f) for damage suffered to the Premises or the contents thereof by reason of the landlord or those for whom it is responsible at law entering the Premises to undertake any expropriation thereof or any work therein or in the case of any emergency.

7. Peaceful Possession: Landlord does hereby warrant to City the exclusive quiet and peaceful possession of the Premises during the whole Term of this Lease so long as all of the terms and conditions herein are fully performed. Notwithstanding anything to the contrary herein, so long as City shall not be in default in the performance of its obligations under this Lease, neither this Lease nor City's right to remain in exclusive possession of the Demised Premises shall be affected or disturbed by reason of any sale of the Premises or default under any mortgage or deed of trust entered into by Landlord, and, if such mortgage or deed of trust shall be foreclosed or if such mortgage or trustee shall exercise any of its remedies under such mortgage or deed of trust, this Lease and all City's rights and obligations hereunder shall survive such foreclosure or sale and continue in full force and effect.

8. Signs: City shall be permitted, at City's sole costs, to install and/or affix whatever signage, advertisements or notices (collectively "Signs") are required by the City on any part of the Premises. Any Signs installed or affixed by City shall be maintained by City at City's cost and expense, and shall be subject to the Landlord's approval, which shall not be unreasonably withheld, delayed or conditioned. Prior to placement of signs they shall be properly permitted by the governmental agencies having jurisdiction over said signs.

9. Rights and Remedies are Cumulative: The rights and remedies herein given to and reserved by Landlord are separate and cumulative rights and remedies, and except as limited

hereby, no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any of the others.

10. Liens:

(a) Notwithstanding any provision of this Lease seemingly to the contrary, City shall never, under any circumstances, have the power to subject the interest of Landlord in the Premises to any mechanics' or materialmen's liens or liens of any kind, nor shall any provision in this Lease ever be construed as empowering, the City to encumber or cause the Landlord to encumber the title or interest of Landlord in the Premises.

(b) Pursuant to the provisions of Section 713.10 Florida Statutes, it is specifically provided that neither the City nor anyone claiming by, through or under the City, including, without limitation, contractors, subcontractors, materialmen, mechanics and laborers, shall have any right to file or place any mechanics or materialmen liens of any kind whatsoever upon Landlord's interest in the Premises, and, on the contrary, such liens are hereby specifically prohibited. All parties with whom the City may deal are put on notice that the City has no power to subject the Landlord's interest to any claim or lien of any kind or character, and all such persons so dealing with the City must look solely to the credit of the City, and not to the Landlord's interest or assets. The short form of this Lease to be recorded in the Public Records of Miami-Dade County, Florida, shall specifically refer to the provisions of this paragraph.

(c) City agrees that within thirty (30) days after the notice of the filing thereof, that City will cause any lien filed against Landlord's interest in the Premises on account of work performed at the request of City to be canceled, released, extinguished or transferred to bond and shall pay and indemnify the Landlord against said lien and any and all costs, charges and expenses, including attorneys' fees, incurred in and about the prosecution or defense of any suit in connection therewith.

(d) Any notices of violation issued by the local government against City and/or Landlord over the City's use and/or maintenance of the Premises must be immediately cured by City as to avoid any liens placed on Landlord's property.

11. Non-Waiver: Any failure of Landlord to enforce rights or seek remedies upon any default of City with respect to the obligations of City shall not prejudice or affect the rights or remedies of Landlord in the event of any subsequent default, and no waiver by Landlord of any breach of any term, covenant or condition shall be considered to be a waiver of any subsequent breach of the same or any other term, covenant or condition.

12. Notice: Any notice required or desired to be served upon landlord shall be deemed to have been sufficiently and adequately served if a copy thereof is delivered by confirmed electronic correspondence to Joe Jimenez at jjimenez@codina.com. Any notice

required or desired to be served upon the City shall be deemed to have been sufficiently and adequately served if a copy thereof is delivered by confirmed electronic correspondence to Barbie Hernandez at Barbara.Hernandez@cityofdoral.com.

13. Holding Over: If City remains in possession after expiration of the Term hereof, without any distinct agreement in writing between the parties, City shall be a tenant at will and the lease shall continue month to month until conveyance of the Triangle Parcel by Landlord to the City. This lease shall not extend beyond one (1) year.

14. Landlord's Representation: Landlord is vested with good, marketable and insurable title to the Premises.

15. City's Representation: City represents and warrants to landlord as follows:

(a) City is a lawfully existing municipality of the State of Florida and the person executing this Lease on its behalf has the full power and authority to do so.

(a) This Lease is binding on City and enforceable against City in accordance with its terms and does not violate any agreement or covenant to which City is a party or pursuant to which City is bound. No consent of any other person or entity to such execution, delivery and performance is required.

16. Landlord's Right of Inspection: Landlord, either in person or by dully appointed agents, shall have, at any time during the existence of this Lease, the right and privilege of entering upon the Premises, including all improvements which may be erected thereon, during any business hours, provided that in making such visitations, the Landlord shall endeavor to comply with the wishes of the City relative thereto and City shall be afforded at least two (2) days advanced written notice of Landlord's intention to so inspect except as may be necessary in the event of an emergency and except that Landlord shall not be entitled to inspect any secured areas.

17. Recording: No portion of this Lease shall be recorded in the Public Records of Miami-Dade County, Florida. However a short form of this Lease may be recorded by the Landlord at its own discretion in the Public Records of Miami-Dade County, Florida.

18. Assignment and Subletting: The terms of this Lease, including the provisions relating to Rent and use, have been negotiated by Landlord and City on the assumption that City will be occupant of the Premises for the full Term. The parties have therefore agreed that City shall have no right to transfer, assign, sublet, enter into license or concession agreements, or mortgage of hypothecate this Lease or the City's interest in the Premises or any part thereof without Landlord's prior written consent. Any attempted transfer, assignment, subletting, license or concession agreement or hypothecation shall be void and confer no rights upon any third person. Any transfer of this Lease from City by merger, consolidation, liquidation or otherwise by operation of law, including, but not limited to, an assignment for the benefit of creditors, shall be included in the term "assignment" for the purposes of this Lease and shall be a violation of this Section. Landlord may deny its consent to an assignment without cause or justification and

may impose such conditions upon the granting of its consent as it may deem appropriate, including, without limitation, requiring the assignee to agree to new or different terms.

19. Defaults by City: This Lease is made upon the condition that City shall punctually and faithfully perform all of the covenants, conditions and agreements by it to be performed. The following shall each be an event of default (each of which is sometimes referred to as an “Event of Default”) in this Lease:

(a) City fails in the observance or performance of any of its other covenants, agreements or conditions provided for in this Lease, and said failure shall continue for a period of fifteen (15) days after written notice thereof from Landlord to City (unless such failure cannot reasonably be cured within such fifteen (15) day period and City commences to cure said failure within said period of fifteen (15) days and continues diligently to pursue the curing of the same);

(b) City does or permits to be done any act which creates a mechanic’s lien or claim therefore against the Premises and fails to cure same within 30 days of receipt of notice that a lien has been filed; and

(c) City fails to furnish Landlord with a copy of any insurance policy required to be furnished by City to Landlord when due and such default shall continue for fifteen (15) days after written notice from Landlord.

20. Landlord’s Remedies: If any Event of Default occurs, then and in such case, Landlord may treat the occurrence of such Event of Default as a breach of this Lease, and in addition to any and all other rights or remedies of Landlord in this Lease or by law or inequity provided, it shall be at the option of Landlord without further notice or demand of any kind to City or any other person, the right of Landlord:

(a) to declare the Term ended and to reenter the Premises and take possession thereof and remove all persons therefrom and City shall have no further claim thereon or thereunder;

(b) to retake possession of the Premises from City by summary proceedings or otherwise and it is agreed that the commencement and prosecution of any action by Landlord in forcible entry and detainer, ejectment or otherwise, or any execution of any judgment or decree obtained in any action to recover possession of the Premises, shall not be construed as an election to terminate this Lease whether or not such entry or re-entry be had or taken under summary proceedings or otherwise and shall not be deemed to have absolved or discharged City from any of its obligations or liabilities for the remainder of the Term. In the event of an entry or taking possession of the Premises as aforesaid, Landlord shall have the right, but not the obligation; to remove therefrom all or any part of the personal property located therein and may place the same in storage at a public warehouse at the expense and risk of the owners thereof. Notwithstanding anything above to the contrary, if an Event of Default by City occurs, Landlord shall have a duty

using commercially reasonable methods to mitigate any damages to landlord caused by the Event of Default.

21. Damages for Default: If this Lease is terminated on account of default by City, Landlord may not recover from City any damages

22. Default by Landlord: If Landlord, within thirty (30) days after written demand from City, shall continue to violate or fail to comply with, or fail to reasonably commence action to comply with or perform any other term, conditions, covenant or agreement to be performed or observed by Landlord under this Lease, City shall have the right to terminate this Lease and recover from landlord any and all sums or damages caused by such default by Landlord.

23. Entire Contract: This instrument embodies the entire contract of the parties and shall not be altered, changed, or modified in any respect except by an instrument signed by the party against whom enforcement is sought. All captions are solely for ease of reference and are not a part of this Lease.

24. Benefit: This Lease and all the covenants, conditions and agreements contained in this instrument shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, representatives, successors and assigns.

25. Miscellaneous:

(a) This Lease shall be construed and governed in accordance with the laws of the State of Florida. All of the parties to this Lease have participated fully in the negotiation and preparation hereof; and, accordingly, this Lease shall not be more strictly construed against any one of the parties hereto. Venue shall lie in Miami-Dade County.

(b) In the event any term or provision of this Lease be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Lease shall be construed to be in full force and effect.

(c) In the event of any litigation between the parties under this Lease, each party shall be responsible for its own reasonable attorney's fees and court costs at all trial and appellate levels.

(d) In construing this Lease, the singular shall be held to include the plural, the plural shall include the singular, the use of any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

(e) All of the exhibits attached to this Lease are incorporated in and made a part of this Lease.

(f) Nothing in this Lease shall be deemed to create a partnership or joint venture between Landlord and City, the parties intending their relationship hereunder to be solely that of landlord and City.

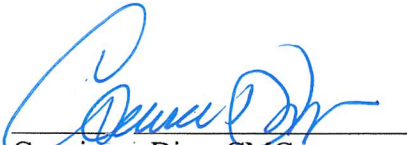
(g) This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors. The City may not assign this Lease without the written consent of the Landlord.

(h) Anything to the contrary notwithstanding, any consent that may be required of the Landlord and/or City pursuant to this Lease shall not be unreasonably withheld or delayed.

(i) City represents and warrants to Landlord that this Lease is binding on City and enforceable against City in accordance with its terms and does not violate any agreement or covenant to which City is a party or pursuant to which City is bound. No consent of any other person or entity to such execution, delivery and performance is required.

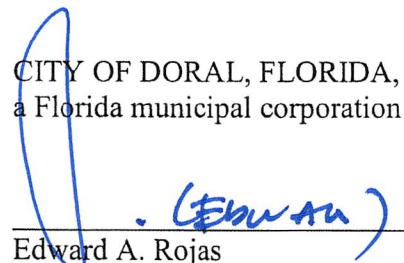
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

ATTEST:



Connie Diaz, CMC
City Clerk

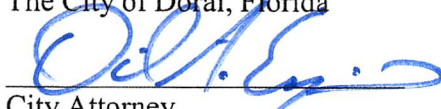
CITY OF DORAL, FLORIDA,
a Florida municipal corporation



Edward A. Rojas
City Manager

4th day of November, 2016

Approved as to form and legality
By office of City Attorney for
The City of Doral, Florida



City Attorney

RESOLUTION No. 16-46

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE AMENDED AND RESTATED DOWNTOWN DORAL ROADWAY IMPROVEMENT AND PUBLIC PARK AREA IMPROVEMENT AND MAINTENANCE AGREEMENT BY AND BETWEEN CM DORAL DEVELOPMENT COMPANY AND THE CITY OF DORAL; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SUBJECT AGREEMENT AND TO FORMALIZE ACCEPTANCE OF THE CONVEYANCE OF PARK LAND IN DOWNTOWN DORAL; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, CM Doral Development Company (“CMDDC”) is the developer of property located within the City of Doral (the “City”), commonly known as “Downtown Doral,” a pedestrian friendly, mixed-use urban center (the “Project”); and

WHEREAS, in order to have the requisite authority to develop the Project, CMDDC submitted an application for a rezoning of the property, along with a development pattern book and master development agreement (the “Development Agreement”), which was approved by City Ordinance 2012-08, establishing a planned unit development known as Downtown Doral; and

WHEREAS, the Development Agreement established certain terms and conditions relating to the development of the Project, including, but not limited to, roadway and public park improvements, modifications and/or dedications; and

WHEREAS, Paragraph 12(b) of the Development Agreement contemplates the public park improvements and dedications to the City, subject to certain specifications; and

WHEREAS, Exhibit “G” of the Development Agreement provides that proposed roadway improvements, modifications and/or dedications will be addressed in phases, at the time of platting; and

WHEREAS, in order to establish a schedule of, and assign responsibilities for, the improvements and modifications and/or dedications of roadways and public park space within Downtown Doral as contemplated by the Development Agreement, CMDDC and the City entered into the Downtown Doral Roadway Improvement and Public Park Area Improvement and Maintenance Agreement on June 7, 2012 (the "Original Agreement"); and

WHEREAS, CMDDC and the City desire to amend and restate the Original Agreement as set forth herein in order to reflect the occurrence of certain events and/or modifying agreements between the CMDDC and City, which have occurred since the date of the Original Agreement; and

WHEREAS, Section 10 of the Original Agreement provides that the Original Agreement may be amended by an instrument in writing by each Party; and

WHEREAS, CMDDC and the City have amicably negotiated revisions to the mutual obligations of the Original Agreement with regard to the construction of N.W. 54th Street and the conveyance of park land within Downtown Doral, which CMDDC and the City have memorialized in the "Amended and Restated Downtown Doral Roadway Improvement and Public Park Area Improvement and Maintenance Agreement," in substantially the form attached hereto as Exhibit "A", which is incorporated herein and made a part hereof by this reference (the "Amended Agreement").

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

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

Section 2. Approval. The Amended Agreement, in substantially the form provided in Exhibit "A", is hereby approved.

Section 3. Authorization. The City Manager is authorized to enter into the Amended Agreement, subject to approval by the City Attorney, as to form and legal sufficiency, together with such nonmaterial revisions determined to be in the best interest of the City. The City Manager is further authorized to fulfill the City's obligations pursuant to the Amended Agreement, to accept conveyance of the park land contemplated in the Amended Agreement, and to execute such documents as may be necessary to consummate the land transaction.

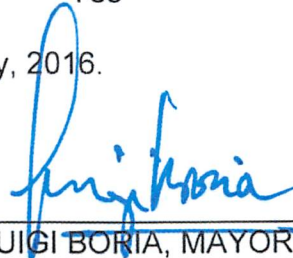
Section 4. Implementation. The City Manager and the City Attorney are hereby authorized to take such action as may be necessary to implement the provisions of this Resolution.

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

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

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	Yes
Councilman Pete Cabrera	Yes
Councilwoman Ana Maria Rodriguez	Absent/Excused
Councilwoman Sandra Ruiz	Yes

PASSED AND ADOPTED this 24 day of February, 2016.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CMC
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE SOLE USE
OF THE CITY OF DORAL



WEISS, SEROTA, HELEMAN, COLE, & BIERMAN, PL
CITY ATTORNEY