



**3.4 Liquidated Damages.** CITY and CONTRACTOR recognize that time is of the essence in this Contract and that the CITY will suffer financial loss if the Work is not completed within the contract times specified in Section 3.1 for the Work above, plus any approved extensions thereof allowed in accordance with the General Conditions. The CONTRACTOR also recognizes the delays, expense and difficulties involved in proving the actual loss suffered by CITY if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY **\$1,099.00** for each calendar day that expires after the time specified in Section 3.1 for Substantial Completion of the Work. After Final Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in Section 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY **\$1,099.00** for each calendar day that expires after the time specified in Section 3.1 for completion and readiness for final payment.

**3.5** Should the Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set in Section 3.1 above because of lack of performance by the CONTRACTOR, it is understood and agreed that aside from any other liquidated damages, all actual additional costs or losses incurred by the CITY including, but not limited to, completion contractor services, financing, professional services, unrealized revenue, will be the responsibility of the CONTRACTOR.

**3.6** Monies due to the CITY under Sections 3.4 and 3.5 shall be deducted from any monies due the CONTRACTOR, or if no money is due or the amount due is insufficient to cover the amount charged the CONTRACTOR shall be liable for said amount.

#### **ARTICLE 4 – CONTRACT PRICE**

**4.1** CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to this Article. The CONTRACTOR shall provide the work at a not to exceed amount of **Two Hundred Ninety-Five Thousand Six Hundred Seven Dollars, \$295,607.00**

**4.1.1** For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated on the Unit Price Bid Form Section 00410. Estimated quantities are not guaranteed, and determination of actual quantities and classification are to be made by ENGINEER as provided in the Contract Documents.

**4.2** The CONTRACTOR agrees that all specific cash allowances are included in the above Contract Price and have been computed in accordance with the Contract Documents.

#### **ARTICLE 5 – PAYMENT PROCEDURES**

**5.1** CONTRACTOR shall submit Applications for Payment in accordance with the Section 00710 - General Conditions, Article 11, Payments to Contractor and Completion. Applications for Payment will be processed by CITY as provided in the General Conditions.

**5.2 Progress Payments, Retainage.** CITY shall make progress payments, deducting the amount from the Contract Price above, on the basis of CONTRACTOR'S Applications for Payment as recommended by the CITY'S REPRESENTATIVE, on or about the last day of each month during construction as provided herein. All such payments will be made in accordance with the schedule of values established in the General Conditions or, in the event there is no schedule of values, as provided in the General Conditions.

**5.2.1** No progress payment shall be made until CONTRACTOR delivers to the CITY complete original partial releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating amount of partial payment, on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed for work completed to date.

**5.3** The CONTRACTOR agrees that ten percent (10%) of the amount due for Work as set forth in each Application for Payment shall be retained by CITY for each Progress Payment until Final Payment, as defined in Section 00710 - General Conditions, Article 11, Payments to Contractor and Completion.

**5.3.1** Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated above, but, in each case, less the aggregate of payments previously made and less such amounts as CITY'S REPRESENTATIVE shall determine, or CITY may withhold, in accordance with the General Conditions.

**5.4** The payment of any Application for Payment by CITY, including the Final Request, does not constitute approval or acceptance by CITY of any item of the Work in such Request for Payment, nor shall it be construed as a waiver of any of CITY's rights hereunder or at law or in equity.

**5.5** The Final Application for Payment by CONTRACTOR shall not be made until the CONTRACTOR delivers to the CITY complete original releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed. The CONTRACTOR may, if any Subcontractor, materialmen, supplier or vendor refuses to furnish the required Final Waiver of Lien, furnish a bond satisfactory to CITY to defend and indemnify CITY and any other property owner, person or entity CITY may be required to indemnify against any lien or claim.

**5.6** Final Payment. Upon final completion and acceptance of the Work in accordance with the General Conditions, CITY shall pay the remainder of the Contract Price and any retainage as recommended by the CITY'S REPRESENTATIVE.

**ARTICLE 6 – INSURANCE/INDEMNIFICATION.**

**6.1** Insurance. The CONTRACTOR shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest of the CITY against hazards or risks of loss as specified in the General Conditions of the Contract Documents.

**6.2 Indemnification.** The CONTRACTOR shall indemnify, defend and hold harmless the CITY, their officials, agents, employees, and volunteers as set forth in General Conditions of the Contract Documents.

**ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS.**

In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

**7.1** CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda) and the other related data identified in the Bidding Documents including “technical data.”

**7.2** CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

**7.3** CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

**7.4** CONTRACTOR has made, or caused to be made, examinations, investigations, tests, or studies as necessary to determine surface and subsurface conditions at or on the site. CONTRACTOR acknowledges that CITY does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

**7.5** The CONTRACTOR is aware of the general nature of Work to be performed by CITY and others at the site that relates to the Work as indicated in the Contract Documents.

**7.6** The CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

**7.7** The CONTRACTOR has given the CITY’S REPRESENTATIVE written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by the CITY’S REPRESENTATIVE is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**7.8 The CONTRACTOR warrants the following:**

**7.8.1 Anti-Discrimination:** The CONTRACTOR agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Contract because of race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

**7.8.2 Anti-Kickback:** The CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the CITY or any other applicable federal or state agency, has any interest, financially or otherwise, in the Project. For breach or violation of this warranty, the CITY shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

**7.8.3 Licensing and Permits:** The CONTRACTOR warrants that it shall have, prior to commencement of work under this Contract and at all times during said work, all required licenses and permits whether federal, state, County or City.

**7.8.4 Public Entity Crime Statement:** The CONTRACTOR warrants that it has not been placed on the convicted vendor list following a conviction for public entity crime, as specified in Section 00456, of the Instructions to Bidders.

**ARTICLE 8 – CONTRACT DOCUMENTS.**

**8.1** The Contract Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the Contract as though physically attached as a part thereof:

**8.1.1** Change Orders.

**8.1.2** Field Orders.

**8.1.3** Contract for Construction.

**8.1.4** Exhibits to this Contract.

**8.1.5** Supplementary Conditions.

**8.1.6** General Conditions.

**8.1.7** Any federal, state, county or city permits for the Project

**8.1.8** Specifications bearing the title: (N/A)

**8.1.9** Drawings consisting of a cover sheet and inclusive of all sheets bearing the following general titles: Plans for the Proposed NW 79<sup>th</sup> Avenue and NW 33<sup>rd</sup> Street Intersection Improvements

- 8.1.10** Bid Documents, including but not limited to: Addendum, Invitation to Bid, Instructions to Bidders, Bid Form provided by CONTRACTOR, Notice of Award and Notice to Proceed.
- 8.1.11** Addenda subject matter takes the same precedence of the respective subject matter that it is modifying. Furthermore, each subsequent addendum takes precedence over previous addenda.
- 8.1.12** The documents listed above shall be incorporated into this Contract (except as expressly noted otherwise above).
- 8.1.13** There are no Contract Documents other than those listed above in this Article. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.
- 8.1.14** The Contract Documents shall remain the property of the CITY. The CONTRACTOR shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the CONTRACTOR use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.
- 8.1.15** The General Conditions discuss the bond and surety requirements of the CITY. This Contract does [x], does not [ ] require bonds. If the Contract does not require bonds, the references to bonds in the General Conditions do not apply to this Contract.

#### **ARTICLE 9 – MISCELLANEOUS.**

**9.1** Terms used in this Contract which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions. Terms used in Article 1 of the Instructions to Bidders also apply to this Contract.

**9.2** Except as otherwise provided in the Contract Documents with respect to subcontractors, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party thereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

**9.3** CITY and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

**9.4** Severability. Should any provision, paragraph, sentence, word, or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or

phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Contract, shall remain unmodified and in full force and effect.

**9.5 Remedies.** If and when any default of this Contract occurs, the CITY may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages and specific performance. Such remedies may be exercised in the sole discretion of the CITY. Nothing contained in this Contract shall limit the CITY from pursuing any legal or equitable remedies that may apply.

**9.6 Access to Public Records.** The CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes. The CITY shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor shall retain all records associated with this Contract for a period of five (5) years from the date of Final Payment or Termination of this Contract.

**9.7 Inspection and Audit.** During the term of this Contract and for five (5) years from the date of Termination, the CONTRACTOR shall allow CITY representatives access during reasonable business hours to CONTRACTOR'S records related to this Contract for the purposes of inspection or audit of such records. If upon an audit of such records, the CITY determines the CONTRACTOR was paid for services not performed, upon receipt of written demand by the CITY, the CONTRACTOR shall remit such payments to the CITY.

**9.8 Counterparts.** This contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.

**9.9 Notices.** Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

**FOR CITY:**

Edward Rojas, City Manager  
City of Doral  
8401 NW 53<sup>rd</sup> Terrace  
Doral, Florida 33166

**WITH COPY TO:**

Daniel Espino  
City Attorney  
Weiss, Serota, Helfman, Cole & Bierman, PL  
2525 Ponce De Leon, Suite 700  
Miami, Florida 33134

**FOR CONTRACTOR:**

Humberto Ortiz, President  
AUM Construction, Inc.  
8950 NW 119 Street  
Hialeah Gardens, Florida 33018

**9.10 WAIVER OF JURY TRIAL AND VENUE.** The CITY and CONTRACTOR knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract, arising out of, under, or in connection with the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party. The venue for any lawsuit arising out of this Contract shall be in Miami-Dade County, Florida.


**9.11 Attorneys' Fees.** If either the CITY or CONTRACTOR is required to enforce the terms of the Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorneys' fees at the trial and appellate level.

**9.12 Amendments.** This Contract may only be amended by the prior written approval of the parties or by execution of a Change Order in the form attached hereto as Exhibit "B".

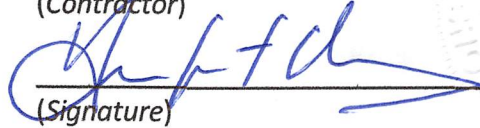


IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: THE CITY OF DORAL, FLORIDA, signing by and through its City Manager, authorized to execute same by Council action on the 10<sup>th</sup> day of May, 2017, and by AUM Construction, Inc. (Contractor), signing by and through its President, duly authorized to execute same.

WITNESS

By:   
\_\_\_\_\_  
(Signature and Corporate Seal)  
Sydney Herrera  
\_\_\_\_\_  
(Print Name and Title)

CONTRACTOR

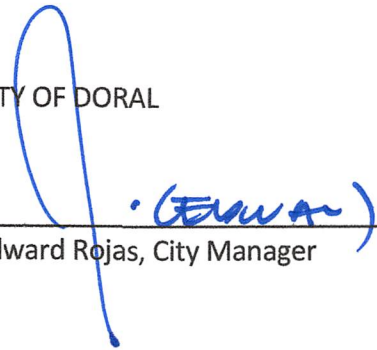
AUM Construction Inc.  
\_\_\_\_\_  
(Contractor)  
  
\_\_\_\_\_  
(Signature)  
Humberto Ortiz President  
\_\_\_\_\_  
(Print Name and Title)

15 day of June, 2017.

ATTEST

  
\_\_\_\_\_  
Connie Diaz, City Clerk

CITY OF DORAL

  
\_\_\_\_\_  
Edward Rojas, City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
Weiss, Serota, Helfman, Cole & Bierman, PL  
City Attorney

(\* In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Humberto Ortiz, certify that I am the President of AUM Construction INC and that Huaberto Ortiz, who signed the Bid with the City of Doral, Miami-Dade County, Florida for intersection improvement, is President of said Corporation with full authority to sign said Bid on behalf of the Corporation.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

Signature


Humberto Ortiz President

Type Name and Title

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

SWORN TO AND SUBSCRIBED before me this 26 day of may, 2017

My Commission Expires:

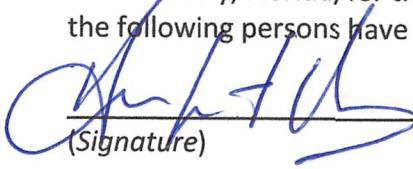


Notary Public



CERTIFICATE AS TO AUTHORIZED CORPORATE PERSONNEL

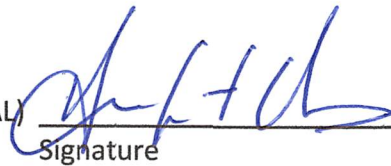
I, Humberto Ortiz, certify that I am the President of ADM Construction Inc, who signed the Bid with the City of Doral, Miami-Dade County, Florida, for the project titled intersection improvements, and that the following persons have the authority to sign payment requests on behalf of the Corporation:

 Humberto Ortiz President  
(Signature) (Typed Name) (Title)

\_\_\_\_\_  
(Signature) (Typed Name) (Title)

\_\_\_\_\_  
(Signature) (Typed Name) (Title)

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.


(SEAL)   
Signature

Humberto Ortiz President  
Type Name and Title

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

SWORN TO AND SUBSCRIBED before me this 26 day of may, 20 12

My Commission Expires:

  
Notary Public

**SECTION 00510 – NOTICE OF AWARD**

To: AUM Construction, Inc.  
8950 NW 119 Street  
Hialeah Gardens, FL 33018

PROJECT DESCRIPTION: City of Doral ***NW 79<sup>th</sup> Avenue and NW 33<sup>rd</sup> Street Intersection Improvements, ITB #2017-10*** in accordance with Contract Documents as prepared by the City

and

The City has considered the Bid submitted by you for the above described WORK in response to its Advertisement for Bid and Instruction to BIDDERS.

You are hereby notified that your Bid has been accepted for the City of Doral ***NW 79<sup>th</sup> Avenue and NW 33<sup>rd</sup> Street Intersection Improvements, ITB #2017-10***, in a not to exceed amount of **\$295,607.00.**

**Two Hundred Ninety-Five Thousand Six Hundred Seven Dollars**

*(Written Amount)*

You are required by the instruction to BIDDER's to execute the Agreement and furnish the required CONTRACTOR's Performance Bond, Payment Bond and Certificated of Insurance within ten (10) days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said Bonds and Insurance within ten (10) days from the date of this Notice, said City will be entitled to, revoke the award and retain the Bid Security.

By:  (Ewan)

Title: City Manager

Dated this 17 day of May, 2017.

**ACCEPTANCE OF NOTICE OF AWARD**

Receipt of the above Notice of Award is hereby acknowledge by

AUM Construction, Inc.

this the 23 day of may, 2017

By: 

Title: President

You are required to return an acknowledged copy of this Notice of Award to the City.

END OF SECTION

**RESOLUTION No. 17-87**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AWARDED INVITATION TO BID #2017-10, "NW 79 AVENUE & NW 33 STREET INTERSECTION IMPROVEMENTS," TO AUM CONSTRUCTION, INC., THE LOWEST, MOST RESPONSIVE AND RESPONSIBLE BIDDER; APPROVING AN AGREEMENT BETWEEN THE CITY AND AUM CONSTRUCTION INC., IN AN AMOUNT NOT TO EXCEED \$325,167.70 FOR THE ROADWAY AND SIGNALIZATION IMPROVEMENTS AT THE INTERSECTION OF NW 33 STREET AND NW 79 AVENUE; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE NEXT LOWEST BIDDER SUCCESSIVELY IF AN AGREEMENT CAN NOT BE NEGOTIATED WITH THE TOP BIDDER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, in response to Invitation to Bid #2017-10 (the "ITB") for "NW 79th Avenue & NW 33rd Street Intersection Improvements" (the "Project"), the City received five (5) bids by the April 13, 2017 deadline with all five (5) companies meeting the required criteria; and

**WHEREAS**, upon review of bids received, staff determined that AUM Construction was the lowest most responsive and responsible bidder (the "Contractor"); and

**WHEREAS**, a copy of Contractor's Bid Submittal which includes the Construction Contract, ITB #2017-10 Inventory, and Bid Tabulation are all attached as Exhibit A, which are incorporated herein and made a part hereof by this reference; and

**WHEREAS**, staff has recommended that the City Council accept the bid and authorize the City Manager to entering into an agreement for the Project with the Contractor in a not to exceed amount of \$325,167.70, which includes a 10% contingency for any unforeseen conditions, and to expend budgeted funds in furtherance hereof; and



**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 part hereof by this reference.

**Section 2. Award.** The ITB is hereby award to AUM Construction, the lowest, most responsible and responsible bidder. This award, in and of itself, absent an agreement with the City, does not vest AUM Construction with any rights.

**Section 3. Approval.** The Contract between the City and Contractor for the Project in an amount of \$325,167.70 (which includes a 10% contingency for any unforeseen conditions), attached hereto in Exhibit "A", which is incorporated herein and made a part hereof by this reference, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

**Section 4. Authorization.** The City Manager is authorized to execute the construction contract and expend budgeted funds on behalf of the City.

**Section 5. Implementation.** The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

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

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Absent/Excused
Councilwoman Christi Fraga	Yes
Councilwoman Claudia Mariaca	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED this 10 day of May, 2017.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
CONNIE DIAZ, CMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
WEISS, SEROTA, HELFMAN, COLE & BIERMAN, P.L.  
CITY ATTORNEY